

THE CLOSED SHOP IN AMERICAN TRADE UNIONS

BY
FRANK T. STOCKTON

A DISSERTATION

Submitted to the Board of University Studies of The Johns
Hopkins University in conformity with the requirements
for the degree of Doctor of Philosophy

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PREFACE.

This monograph had its origin in an investigation carried on by the author while a member of the Economic Seminary of the Johns Hopkins University. The chief sources of information have been the trade-union publications contained in the Johns Hopkins Library. Documentary study, however, has been supplemented by personal interviews with trade-union officials and employers of labor and by immediate study of labor conditions.

The author wishes to express his appreciation of the helpful criticism received from Professor J. H. Hollander and Professor G. E. Barnett.

THE CLOSED SHOP IN AMERICAN TRADE UNIONS.

INTRODUCTION.

Few industrial questions in the United States have attracted the popular interest that has been accorded the recent dispute over the closed shop. For a full decade the American public has listened attentively to a widespread discussion of what should be the proper attitude of union workers toward non-unionists. As a result of this extended debate there are no terms in labor-union terminology more familiar to the average American citizen than "closed shop" and "open shop."

Although the closed shop has been subject to much debate, little has been done to make clear the extent to which the trade unions have excluded non-unionists from employment and what methods the unions have pursued. This gap in our information is to be explained chiefly on the ground that the general public has been interested only in the broad social aspects of the question. Accordingly, much that has been said concerning the closed shop has dealt with its ethical significance, and arguments have been addressed to the public conscience concerning the justice or injustice of excluding certain classes of persons from employment. Some attention has also been given to the question of how far the closed shop is necessary as a trade-union device and what effect it tends to have upon social well-being. The employers have tried to show that the closed shop is an institution which is out of place in modern industrial life, that it cripples business, and that it creates an undesirable labor monopoly. In reply, trade unionists have insisted upon the necessity of the closed shop to the existence of many unions. They have attempted to show that the closed

shop does not lessen industrial efficiency, and they have laid much stress upon the good the closed shop confers upon labor as a whole. Finally, great interest has been manifested in the legal aspects of the subject, owing largely to the increasing number of cases involving the closed shop which have been brought before the courts.

The primary aim of the present study is to set forth the facts concerning the closed shop. It is proposed, first, to trace the manner in which the closed-shop rule developed among the early trade societies in America, and to disclose the motives which led to its incorporation into trade-union policy. Secondly, the history of the closed-shop movement will be set forth. The relative importance attached to the enforcement of the closed shop at various stages in our industrial development and the efforts which employers have made to check its operation will be shown. Next, the forms of the closed shop as they exist in various unions will be described. This analysis will make clear what the closed shop is and how far exclusion from employment is involved in its working. The manner in which the closed shop is established and the methods by which it is enforced will then engage our attention. When the closed shop has thus been described in detail, it will be possible in succeeding chapters to study its value as a trade-union device and its economic import.

At the outset, however, a statement of what we mean by the "closed shop" is imperative. When a union enforces the closed-shop rule, its members are not permitted to work with non-union men, that is, in the same "shop" with them. But trade unions differ widely in their restrictions on membership, so that of a number of unions which enforce the closed shop no two may exclude exactly the same classes of workers. Consequently, there is no one example which can serve as the type of a closed shop. Closed shops, in the sense in which the term is used herein, are shops in which is enforced the closed-shop rule as interpreted by the particular unions or groups of unions having jurisdiction. Open shops are shops where union men work or may work

side by side with non-unionists with the full knowledge and consent both of the employers and of the unions. Finally, non-union shops are shops where union men as such are not employed either because the employer will not hire them or because the unions have ordered their members not to obtain employment therein.

In the earlier days of American trade unionism it was customary to call a shop a "union shop" provided a union had control of a sufficient number of workmen to secure the observance of union working rules, even though the union could not force the exclusive employment of its members. Such, however, is not at the present time the meaning attached to the term "union shop." It now means identically the same thing as closed shop.¹ Some writers have attempted to distinguish the two terms by defining a closed shop as one where the exclusive employment of unionists is a matter of formal agreement with the employer. A union shop is said to be an establishment where a like result is accomplished without any agreement.² This distinction appears valueless.

A shop is not to be regarded as closed merely because all the workmen at any given time are unionists. It is closed only if the union men refuse to allow non-unionists permanently to retain employment. If non-unionists are allowed to continue at work undisturbed, it is an open shop. The so-called "preferential" closed shop³ is really an open shop. Other terms meaning the same thing as closed shop are "fair shop,"⁴ "card shop," "contract shop," and "organized shop."

¹ The agreement of the Printing Pressmen with the American Newspaper Publishers' Association has for a number of years contained the following clause: "The words 'union pressroom' as herein employed shall be construed to refer only to such pressrooms as are operated wholly by union employees, in which union rules prevail, and in which the union has been formally recognized by the employer" (Printing Pressmen, Constitution and By-Laws, 1909, p. 91).

² The Elevator Constructor, October, 1905, p. 13; November, 1905, p. 30.

³ See below, p. 62 note.

⁴ In some unions, however, shops are said to be "fair" if they pay union wages and observe union working rules, although non-unionists may be employed.

But while the mere fact that all employees are union men does not necessarily make a closed shop, neither does the absence of union men always indicate a non-union shop. A shop is open whenever the employer does not discriminate against unionists and when, at the same time, unions do not forbid their members to work in it. A shop is not an open shop when a union enforces the closed-shop rule therein, even if the employer has issued an order or "declaration" stating that he will hire whom he pleases. Nor is a shop open when an employer professes to treat unionists and non-unionists alike and yet in practice refuses to hire the former.

Non-union shops may be divided into three classes. First, there are "unorganized shops" in which, for reasons of policy, union men are not allowed to work by their organizations. The employer may not pay the minimum rate, or he may employ persons ineligible to union membership. Such shops are often not subject to strong union antagonism, but it is not deemed wise to allow union members to obtain employment in them as long as work can be secured in other shops, whether "closed" or "open," which are more satisfactory.

The second class of non-union shops is composed of shops against which the union is seriously embittered. If an attempted organization of the shop has failed, or if, after unionizing his shop, the employer has fallen out with the union, his shop is then declared to be a "scab," "rat," "unfair," or "foul" shop. Whoever obtains employment in it becomes a "scab," "rat," "blackleg," "snake," "bat," or "anti-unionist," according to the varied terminology of the unions.

Finally, there is the "anti-union shop,"¹ which is non-union because the employer discharges any unionist he may discover at work therein. Even if union men secretly secure work in the shop, it is not an "open shop," since they

¹In December, 1905, the editor of the *Bridgeman's Magazine* complained that no term had "come into vogue for establishments which exclude unionists from employment." The term "anti-union shop" seems appropriate.

do not obtain employment as unionists. Sometimes the employer in such a shop forces his employees to sign an individual contract in which each workman agrees that while in such service he will have no connection with any labor organization.

Since 1905 there has been much objection on the part of trade unionists to the use of the term "closed shop" to indicate a shop from which non-unionists are excluded. They contend that this use of the term has been brought about by designing employers who wish to place the unions in a bad light,¹ and that union men have ill-advisedly copied the phraseology of their opponents with the result that they are now burdened with a misleading name for a misunderstood policy. The proper term, they claim, is "union shop." They assert that the union shop is "never a closed one;" it is open to all competent workmen who seek employment.² Some unionists also contend that there is no such thing as an open shop, all shops being either union or non-union, organized or unorganized. The fact that a shop admits union and non-union men alike to its workrooms does not "set aside that anti-union policy governing the plant which refuses to recognize a single principle of unionism and opposes all its laws. . . . The 'open shop' is closed to the spirit and letter of unionism, and for these reasons it is a non-union shop."³

Trade unionists contend, moreover, that the term "closed shop" has been twisted from its older significance—a shop closed to unionists. The term, they say, is "exactly proper when used to describe a shop in which for good and sufficient reasons, the union does not permit its members to

¹ "Those who are hostile to labor cunningly employ the term 'closed shop' for a union shop because of the general antipathy which is ordinarily felt toward anything closed, and with the specious plea that the so-called 'open shop' must necessarily be the opportunity for freedom" (American Federation of Labor, Report of Proceedings of the Twenty-Seventh Annual Convention, 1907, p. 25, President's Report).

² The American Federationist, November, 1905, p. 846.

³ Meat Cutters and Butcher Workmen, Official Journal, June, 1906, p. 29.

accept employment."¹ A shop becomes an open shop when it is "opened" to union members.

If we examine the history of the terminology used by trade unions in connection with the closed shop, it will be found that for a considerable period these were the meanings of the words "closed" and "open" among such unions as the Iron Molders, the Iron, Steel and Tin Workers, the Cigar Makers, and the Printers. Prior to 1860 shops were generally known either as union or non-union shops. Some of the union shops were really open shops, while some of the non-union shops were known as "scab" or "rat" shops. By 1864, however, notices began to appear in the *Iron Moulders' International Journal* to the effect that certain shops had been "closed" pending the settlement of strikes.² In 1867 President Sylvis of the Iron Molders warned his men against too quickly declaring a shop a "scab" shop, and recommended that the president of the union be given authority "to open every shop . . . illegally closed."³ Thus it will be seen that to "close" a shop amounted practically to the same thing as to "rat" or "scab" it. Once "closed," union men were not allowed to work in the shop until it was "opened" to them by their organization.⁴

Such was the terminology in general use until about 1890, but for a number of years previous to this time a change had been coming about. Thus, in 1879 the local union of cigar makers at St. Louis, Missouri, after winning a strike, notified union cigar makers through the *Cigar Makers' Journal* that the St. Louis union was about to make a move "in the direction of closing the shops," that is, preventing non-unionists from working with unionists.⁵ In many trades it became customary instead of closing certain shops to unionists to think of union shops as closed to non-unionists. This

¹ *Blacksmiths' Journal*, May, 1908, p. 8.

² See, for example, issue of June, 1864, p. 26.

³ *Proceedings of the Eighth Annual Session*, 1867, p. 10.

⁴ During this period what are now called closed shops were occasionally called "good" shops. Open shops were frequently called "free" or "independent" shops. Shops controlled by the Knights of Labor were known as "K. of L. shops."

⁵ *Cigar Makers' Official Journal*, November, 1879, p. 3.

change went naturally hand in hand with the increasing strength of the unions and their increasing insistence on the exclusion of non-unionists. It is safe to say that the present meaning of the term "closed shop" was developed independently by the trade unions themselves and has not been foisted upon them by their opponents. The latter have merely seized upon the term and have tried to make the most of it, to the disadvantage of the unions.

Similarly, the term "open shop" has undergone a change in meaning. An "open shop" was formerly one open to union men, that is, a shop in which they were allowed to work. It might be union or non-union as union men found it possible to gain substantial control or not. By 1889, or perhaps even earlier, American trade unionists had recognized that there was an essential similarity among all shops where union and non-union men worked together, and that there was a definite "open-shop method" of conducting a business. The journals of this period began to speak of "what is termed an open shop,"¹ and to mention employers who wish "to run an open shop,"² and in some cases to denounce "the open-shop system."³ The open shop gradually became not a shop open to unionists but one open to non-unionists. The increasing use of the term "closed shop" to indicate a shop closed to non-unionists was important in this evolution. Quite naturally, if some shops are "closed" to non-union men, shops where unionists and non-unionists are employed are called "open."

From 1890 until the present time the older terminology has gradually been superseded by the new. The latter is now firmly intrenched, and if correctly understood does not seem objectionable.⁴ The unions properly point out that a union which enforces the closed shop is not necessarily a closed union, that is, one which does not freely admit competent workmen. There is of course no logical connection

¹ Iron Molders' Journal, September 30, 1889, p. 6.

² Iron Molders, Proceedings of the Nineteenth Session, 1890, p. 28.

³ Cigar Makers' Official Journal, October, 1890, p. 4.

⁴ The term "union shop" still widely prevails in the same sense as closed shop.

between the two. If this distinction is kept in mind, it is proper to say that where trade unionists will not work with non-unionists the shop is closed.¹

Finally, it may be noted that the words "closed" and "open" are frequently used in connection with various equivalents for "shop." Thus, for instance, certain unions speak of closed or open offices, jobs, factories, mills, yards, harbors, or mines. Every union which discriminates against non-union men, however, employs as general terms such phrases as "closed-shop rule," "open-shop system," or "non-union shop plan."²

¹ Eleventh Special Report of the Commissioner of Labor, 1904, p. 24.

² Among the British trade unions the open shop is termed "working mixed." French terms for the union or closed shop and the open shop are "boutique d'union" and "boutique ouverte." Corresponding German terms are "union Werkstatt" and "offene Werkstatt."

CHAPTER I.

THE DEVELOPMENT OF THE CLOSED-SHOP RULE.

Contrary to general opinion, the closed shop is not an institution of American origin nor is it of recent incorporation into trade-union policy. How far back its history goes it is impossible to say, but exclusion from employment is such an obvious weapon of industrial warfare that it is hard to believe that in some form or other it has not been used since the inception of trade unions.

Whatever may be the case in other countries, so far as England is concerned, the closed shop is "coeval with Trade Unionism itself."¹ Moreover, there is trustworthy evidence that even before trade unions proper came into existence the English guilds and trade clubs of handicraftsmen discriminated against non-members. Thus Sidney and Beatrice Webb assert that the eighteenth century trade clubs of handicraftsmen "would have scouted the idea of allowing any man to work at their trade who was not a member of the club."² Brentano mentions the fact that some of the guild-statutes of the sixteenth and seventeenth centuries provided that "no journeyman was to work with a non-member;"³ in other guild-statutes appeared the rule that "as long as members of the guild were out of work, no member was to work with non-members."⁴

In the early years of English trade unionism many of the unions were bitterly opposed to working with "unlawful persons," that is, persons who had entered a trade in violation of the Act of 5 Elizabeth, c. 4, which regulated the system of apprenticeship. Not only were such workmen

¹ Webb, *Industrial Democracy*, p. 214.

² *Ibid.* See also Webb, *History of Trade Unionism*, pp. 31, 46.

³ Brentano, *On the History and Development of Guilds and the Origin of Trade Unions*, pp. 96-97.

⁴ *Ibid.*, pp. 67-68.

attacked by legal methods,¹ but strikes were also called against them.² Jevons notes a pamphlet, "A practical and eligible plan to secure the rights and privileges of mechanics," published in 1776, which outlines a scheme for enabling workmen to "make use of every lawful means to prevent those from exercising the calling who were not authorized by law, whether as journeymen or masters."³ Jevons says that "societies appear actually to have been formed on the basis sketched out."

Probably coincident with this movement seems to have been the adoption of regulations by many of the English trade societies requiring all persons engaged in the trade to observe "society rules" if they wished to work with society members. Thus the "Practical and eligible plan" of 1776 suggested a "grand" or central committee with power to use "every legal mode" to prevent persons from working contrary to the articles and resolutions of the organization.⁴ In a parliamentary report of 1806 reference was made to the fact that there had been in existence for some time an "institution or society among the woolen manufacturers, consisting chiefly of clothworkers," who so conducted their organization that there was every reason to believe "that no clothworker would be suffered to carry on his trade, otherwise than in solitude, who should refuse to submit to the obligations and rules of the society."⁵

As also indicating the early origin of the "principle of exclusion," as they term it, the historians of English trade unionism point out that "at the present day it is especially in the old-fashioned and long-established unions that we find the most rigid enforcement of membership."⁶ While the newer organizations incline to exclude non-members from employment, it is among the firmly established unions, with

¹ Webb, *History of Trade Unionism*, p. 53.

² Brentano, pp. 108, 112.

³ Jevons, *The State in Relation to Labor*, pp. 101-102.

⁴ *Ibid.*, p. 102.

⁵ Report of the Committee on the Woolen Manufactures, quoted by Webb, *History of Trade Unionism*, p. 34.

⁶ Webb, *Industrial Democracy*, p. 215.

a long history, that the exclusion of such persons has become almost mechanical.

It is probable that, through emigration to America and constant communication between the two countries, journey-men on this side of the Atlantic became familiar with the policy of excluding certain persons from employment. It was impossible for the early American trade societies to insist in any thoroughgoing fashion upon the immediate enforcement of the closed shop. Only a small part of the craftsmen in any trade were society members, and there was little intercourse or cooperation between isolated local organizations. Once well under way, however, trade unions rapidly developed, and their increase in strength was accompanied almost always with an increasing insistence upon the exclusion of non-unionists.

Owing to lack of data, in many cases it is impossible to state with exactness the attitude of the early trade societies toward the employment of non-unionists. An exception exists in the case of the printers' or typographical societies which thrived from 1802 onward, since a considerable part of their minutes is accessible.¹

The methods used by the early typographical societies to enforce their trade regulations were from the nature of the case experimental. The chief concern of the societies was the maintenance of a wage scale. It was believed that this purpose could be accomplished if each member was forbidden to work for less than the established rate, but printing offices were allowed to employ non-members, who might or might not obey the rules. This plan was soon found to be defective, since non-members frequently cut the rate. As early as May 16, 1807, the Philadelphia Typographical Society appointed a committee to consider the matter. The committee in its report proposed that a conference be held with the master printers, and that such changes in prices

¹ Barnett, "The Printers: A Study in American Trade Unionism," in *American Economic Association Quarterly*, October, 1909. Acknowledgment is here made of the very substantial assistance furnished by this monograph. The sources, however, have been examined independently.

be made "as the nature of the times may require and enable employers in all cases to give the preference, and, if possible, never to employ any others than members of this institution, or at least none but men who have served a regular apprenticeship."¹ The suggestion was rejected by the board of directors as at variance with the established policy of the society. They also rejected a proposal to bar from future membership all persons who were at the time working below the price. The New York Typographical Society in 1810 was likewise informed by a committee that the rate was being cut in certain offices, but no action of importance was taken on the report.² It was also found in the enforcement of the apprenticeship requirements, the only other trade regulation made by these societies, that while society members obeyed the rule and did not work at press with any person who was not "regularly bred," non-members in the same office could and did teach the trade to such persons.

In view of these facts it became necessary, if the societies were to enforce their trade rules, to devise some other method of dealing with the situation. The immediate development was in the direction of requiring the employer, under penalty of being deprived of that part of the labor supply controlled by the society, "to recognize the society rules as binding upon him as an employer."³ First to act was the New York society. On July 22, 1809, it adopted a by-law providing that no member of the society should "engage or continue when there is a journeyman working for less than the established prices." The rule was enforced to some extent, but there was considerable reluctance on the part of many members to give up their positions in accordance with the requirement. On November 18, 1809, the by-law was suspended, and it was finally repealed on June 16, 1810.⁴ An attempt to revive it on August 17, 1811, was defeated.

For a number of years following 1816, records of the proceedings of the printers' societies are not extant. Later on,

¹ Barnett, p. 280.

² Ibid., p. 281.

³ Ibid., p. 282.

⁴ Ibid., pp. 282-283.

when data are again available, it can easily be seen that the plan of the New York society had been readopted. This is indicated by the following typical rule in the constitution of the Baltimore Typographical Society in 1832: "No member under forfeit of membership shall work in any office where a boy, not an original apprentice of that office, is employed for less than the list of prices demands unless the boy so employed is under seventeen years of age or shall have come from an office the proprietor of which shall have deceased or declined business; nor shall any member, under the same forfeiture, work in an office where any person or persons are employed for less than the list of prices calls for."¹ The employer was thus required to observe the two fundamental rules of the society or he could not secure the services of society members. The rule that members should work only in offices where the trade rules of the society were observed excluded from employment with unionists only those persons who could not obtain the society rate. The emergence of a wider policy of exclusion was due to a different but contemporaneous line of development.

To secure the enforcement of wage scales and apprentice rules, it was, of course, necessary for the societies to inflict some penalty upon members who saw fit to disobey their regulations. This was ordinarily accomplished by expelling the offenders from membership, whereupon they became known to the trade as "rats," and were shunned by all good unionists. It is clear that long before the printers' societies refused to work with ordinary non-union men there was an intense feeling against working with "rats," with the result that strikes were called in shops where they were employed.²

Not only did the societies object to working with those who had "ratted" in their own locality, but they also felt that members of one society should refuse to work with

¹ Baltimore Typographical Society, Constitution, 1832, Art. XI.

² Such, for example, was the often mentioned strike in Albany in 1821, referred to by Thurlow Weed in his *Autobiography*, p. 86. See also Barnett, p. 288; Wright, *The Industrial Evolution of the United States*, pp. 233-234; Ely, *The Labor Movement in America*, p. 39.

journeymen who had "ratted" in other cities where societies existed. Thus, on September 9, 1809, the New York society drafted a letter to be sent to neighboring cities, urging that there be an interchange of information concerning the movement of "rats" from one place to another.¹ In 1816 the Albany Typographical Society reported to New York the names of several printers who had worked for less than the bill of prices after having been "several times warned of the consequences which would result from their proceedings."² When one of these "rats" came to New York, however, the typographical society of that place, after some hesitation, voted that its members who were working with him "be at liberty to retain their situations." The aversion to working with a "rat" gradually grew stronger as the independent societies were gathered into a general organization.

Thus far we have seen that during the first stage in the development of the closed shop the organized printers forbade their members to work in shops which did not observe the two cardinal trade regulations, and also in shops where "unfair" workmen were employed. But the closed shop of the present day means more than this, for it excludes not only those who cannot earn the minimum rate and "unfair" men, but all non-union men. That the policy of excluding all non-unionists was under consideration at a very early time we have already indicated.³ Almost from the outset there appeared in the rules of the societies the requirement that employment should be secured for society members in preference to non-members. In Philadelphia the officers were pledged to this at their installation. According to a rule passed by the board of directors of the society on February 21, 1807, a member who secured work for a non-society man in preference to a fellow-member was liable to be expelled.⁴ Similar provisions were made by

¹ MS. Minutes, New York Typographical Society, September 9, 1809.

² *Ibid.*, October 12, 1816.

³ See above, pp. 19-20.

⁴ Barnett, p. 284.

other societies; but although members were occasionally arraigned on the charge of having violated the rule, on the whole it was "but loosely observed."¹

By about 1840 the closed-shop rule had been fully developed, and the printers' associations and societies in existence at this time explicitly provided against the employment of non-members in the same offices with society members. The rules of the New York Typographical Association in 1833 required all members "to inform strangers who come into the office where they are employed, of the established wages, and also of the existence of the association and of the necessity of becoming members."² In the constitution of the reorganized Baltimore society of 1842 the following rule appeared: "Every person working at the business will be required to make application to join this society, within one month from the time of his commencing work at any office in the city. . . . On the refusal or neglect of any to comply with the regulations contained in the foregoing sections or in case of the rejection of the applicant . . . *the members of this society shall cease to work in any office where such person may be employed.*"³

Unfortunately, the steps in the development of the closed-shop rule among other trades cannot be traced as satisfactorily as among the Printers, since very few of the early constitutions and minutes are extant. In five or six trades, however, facts can be found here and there which seem to indicate a parallelism with the experience of the printers' societies.

Next in interest and importance to the Printers are the Cordwainers, who were organized in Philadelphia as early

¹ On November 1, 1817, the New York society expelled a member on a charge of six counts, one of which was that he had refused "to give employment to a member of this society; and employing one not a member in preference, . . . a distinct violation of the solemn pledge he has repeatedly given us." Whether conviction on this count alone would have caused his expulsion appears doubtful.

² Barnett, p. 285.

³ Baltimore Typographical Society, Constitution, 1842, Art. VI, Secs. 1, 3.

as 1794.¹ Societies were also established at a very early time in Baltimore, New York, Pittsburgh, and other centers of the boot and shoe trade. Indictments were brought against members of several of the societies for "a combination and conspiracy to raise their wages."² From the reports of these trials it is possible to ascertain the methods which the societies adopted to enforce their trade regulations and, to some extent, to trace the stages in the development of these methods.

At the very first meeting of the Pittsburgh society, organized about 1809, the members "swore not to work for any employer who would not give the wages."³ Journeymen who went to work in struck shops or worked under the scale were "scabbed," and society members were not allowed to work with them. Very shortly thereafter the society refused to allow its members to work with non-union journeymen. In the Philadelphia society, which was the first to be organized, it was a rule from the beginning, apparently, that no journeyman, be he member or non-member, should be allowed to work for an employer at less than the established prices.⁴ Against those who violated this regulation the "scab law" was applied with great vigor. "Turn-outs" against "scabs" were frequent. It was not long, however, before all non-members were excluded from employment.

In the constitution of the Journeymen Cordwainers of the City of New York, printed in 1805, it was provided that "no member of this society shall work for an employer, that has any Journeyman Cordwainer, or his apprentice in his employment, that do not belong to this Society, unless the jour-

¹ Documentary History of American Industrial Society, Vol. III, edited by Commons and Gilmore, p. 27.

² The trials were held in Philadelphia, 1806; in New York and Baltimore, 1809; in Pittsburgh, 1815; in Chambersburg, Pennsylvania, 1829; in Geneva, New York, 1835; in Hudson, New York, 1836.

³ Report of the Trial of the Journeymen Cordwainers, of the Borough of Pittsburgh. Taken by Charles Shaler, Esq. Reprinted in Commons and Gilmore, Vol. IV, p. 26.

⁴ The Trial of the Boot and Shoemakers of Philadelphia. Taken by Thomas Lloyd. Reprinted in Commons and Gilmore, Vol. III, p. 74.

neyman come and join the same.”¹ If the non-member failed to join the society within a specified time, a fine was imposed upon him which had to be paid before he could be admitted to membership.² A similar rule applied to apprentices who had become “free.”³ While some witnesses at the trial declared that they had never heard of a “turn-out” being called merely because non-members were employed in a shop, the bulk of evidence indicates that such strikes or “turn-outs” actually occurred. This society was probably the first labor organization in America to adopt a constitution openly asserting the principle of exclusion and applying it to all non-members.

But while the cordwainers’ societies which came latest under judicial notice, such as the Journeymen Cordwainers of the Borough of Pittsburgh, exhibit comparatively slight development over the early Philadelphia society in their closed-shop policy, at least one innovation is to be noted. The Pittsburgh society in June, 1815, “brought forward a resolution to write to the societies in Baltimore and Philadelphia and to agree with them not to receive any members of their societies, unless they produced certificates of belonging to their societies, and then if he came to the place without one, they would not work with him.”⁴ One employer testified that he had been asked to discharge a journeyman who had “scabbed” in Baltimore, but on his refusal to comply with the request the Pittsburgh cordwainers “did not scab the shop.”⁵

The tailors were also organized at an early date. From the report of the trial of the Buffalo tailors for conspiracy in 1824 it is evident that permission to employ society members was contingent upon the payment by an employer of a minimum wage to all tailors, union and non-union alike,

¹ Trial of the Journeymen Cordwainers of the City of New York. Reported by William Sampson. Reprinted in Commons and Gilmore, Vol. III, p. 366.

² *Ibid.*, p. 367 (Art. XI).

³ *Ibid.*, (Art. XII).

⁴ *Ibid.*, Vol. IV, p. 31.

⁵ *Ibid.*, p. 51.

and upon the non-employment of "unfair" journeymen. This is made clear by a statement in a local paper of the period that "a singular custom among the Jours. [that is, journeymen] to coerce the refractory was proved to exist throughout the United States, by which the person who refused to come into the measures of the majority or who subsequently to a turn out should, before an arrangement was had, labor at the same place for less than the wages demanded, was stigmatized by an appropriate name, and rendered too infamous to be allowed to labor in any shop where his conduct was known."¹ In other words, a "scab" was not allowed to work with society members.

From the report of the trial of the "Twenty Journeymen Tailors" of New York in 1836 it appears that members of the New York society of tailors had approached journeymen who were working at "shops under the prohibition," that is, struck or "unfair" shops, and had asked them "to abstain from working and join the Society." They were warned that if they refused to comply with the society's wishes they would be proscribed "in such a manner, that they could not get employment in regular shops, here or anywhere else, where there were unions." They were told that members of the unions would "refuse even to work with them, or to work in any shop where they should be employed; and literally to hunt them from all tailors' society."² If this testimony is trustworthy, it seems evident that persons who had "scabbed" in one locality were ostracized in every community where the tailors were organized. Nothing was said in the course of the trial about the refusal of society members to work with non-members who were not "scabs." It is probable that a rule of this sort had not yet been adopted.

In a Philadelphia case, however, in 1827 it appears that non-union tailors were barred from employment. All the witnesses at the trial of the journeymen tailors in that year

¹The Buffalo Emporium, December 25, 1824; the article is reprinted in Commons and Gilmore, Vol. IV, p. 94.

²The New York Courier and Enquirer, May 31, 1836; the article is reprinted in Commons and Gilmore, Vol. IV, p. 316.

agreed that society members would not "sit alongside" a "scab." This seems to have been the fixed policy of the Philadelphia society. One witness stated that the society compelled journeymen to join it after they had "worked in a shop ten or twelve days." If they did not join, "each one in the shop would be liable to a fine."¹ Other witnesses declared that this was not the case. It is probable that each shop had "its own rules."² In some shops all journeymen were required to join the society, while in others non-members were tolerated.

The cigar makers appear to have effected their earliest organization in Baltimore in 1851. For the first four and one half years of the Baltimore union's existence no records of its proceedings are available. From the earliest minutes extant it appears that in February, 1856, the society required its members not to work for less than the established wage rate, but did not discriminate against non-unionists who worked for less. As a result of an attempt to decrease wages, the union on February 28, 1856, voted that no member should accept work in certain shops. This did not end the difficulty, as non-unionists continued to work in some of the shops below the scale. This led the union to notify wage-cutting non-members that they should cease work on penalty of having "the hands of the association refuse to work with them in the association shops."³

The rule that non-union men should not work at less than union wages did not give the union control over the situation, and on March 17, 1856, the association voted that no member of the organization should thereafter "work with any man unless he is a member of the association or gives his

¹ Trial of Twenty-four Journeymen Tailors, charged with a Conspiracy: Before the Mayor's Court of the City of Philadelphia, September Sessions 1827. Reported by Marcus T. Gould. Reprinted in Commons and Gilmore, Vol. IV, p. 141.

² Ibid., p. 133.

³ MS. Proceedings of the Cigar Makers' Society of the State of Maryland, 1856-1863. It was on March 14, 1856, that this notice was given to the workmen of a Mr. Cromer. It had the effect of bringing all but two of his men into the union, though all that was contemplated at the time was to make them leave their work.

consent to be a member at the first meeting night." On August 4, 1856, unanimous consent was given to call a strike in a shop against a Mr. Lohman, "he refusing to join the association." On no occasion thereafter does the rule seem to have been suspended.¹

In 1854 the cigar makers' unions of New York State, according to McNeil,² refused to work with "rats" or "scabs," especially in what were termed "fair" shops. Whether there had developed an intercity proscription of scabs is not clear from McNeil's statement. In September, 1856, however, the Baltimore Cigar Makers sent to the Philadelphia and New York unions the names of a number of journeymen who had refused to obey a strike order. While the purpose in forwarding this list is not expressed, it could only have been to notify these unions that those named were not to be allowed to work in organized shops. In December, 1860, the Maryland association, after considerable debate, decided to notify all other societies in the trade that after January 1, 1861, its members would not work with any stranger coming from a place where a cigar makers' organization existed unless he could produce a certificate of membership therein.

The Hollow Ware Glassblowers' Union of the United States held the second annual meeting of its Grand Union in 1858. At that time a resolution was adopted which at least suggests that a closed-shop policy was developing. It provided that union members were not to work "in any factory with any journeyman who is working for a less rate of wages than the list of prices." Furthermore, union members were not to work "in any factory with any one who has a molder or finisher, or an assistant, in making bottles or vials, or for any other purpose than gathering glass, except such assistant be a regular journeyman or apprentice to the business."³

¹ On June 2, 1856, all of Mr. Cromer's non-union hands were notified to "join the association forthwith."

² McNeil, *The Labor Movement: The Problem of Today*, pp. 585-586.

³ "History of the Glass Bottle Blowers' Association," 1901.

In the constitution of the Benevolent and Protective Association of United Operative Mule Spinners of New England for 1858 it was provided that all members of the organization were to "intercede for employment for any of its members out of employ in preference to all other Spinners."¹ It is probable that from this rule developed the policy of excluding non-unionists from employment. A number of unions, for example the Potters,² the Longshoremen,³ and the Iron, Steel and Tin Workers,⁴ retain "preferential" clauses in their constitutions, survivals in all probability of the original attitude toward non-unionists. None of these unions, at present, are willing to work with non-unionists.

The early history of the Iron Molders also shows an interesting development of the closed-shop rule. In the constitution of the Iron Stove and Hollow Ware Moulders of Philadelphia for 1855 emphasis was laid upon the provision that no member should work for less than the standard rate in a shop "represented in the union by an executive committee," except by the consent of such committee. Members were not allowed to work in a "represented" foundry where any journeyman, "whether a member of this association or not," accepted less than the minimum rate.⁵ The association, however, made no attempt to compel members or non-members to observe the wage scale in foundries "not represented in the union." Members working in such establishments were granted cards exempting them "from the payment of dues and the laws in regard to prices and all other regulations of the union that may not be applicable in such a case." Upon returning to work in an organized shop the surrender of the cards and the privileges consequent upon them was required.⁶

¹ General By-Laws, Sec. 6.

² Constitution, 1910, Rules and regulations of local unions, Sec. 226.

³ Constitution, 1909, Rules for Locals, Sec. 17.

⁴ Constitution, 1909, Art. XVII, Sec. 11. This section was originally adopted in 1876.

⁵ Article VI, Sec. 1.

⁶ Article II, Sec. 4.

It appears from these rules that the Molders differed from the societies of cigar makers, printers, and cordwainers in that they did not require their members to observe the union scale in all shops.¹ Neither did the Molders during the early period in the history of their national union forbid the employment of members in "scab shops." A resolution to that effect was "indefinitely postponed" by the convention of 1866,² but the local unions for the most part did not allow members to work in such shops. In 1867 an attempt to secure the adoption of an International closed-shop rule was defeated,³ and instead the convention indorsed a resolution declaring that it was "bad policy for union men to quit work on account of non-union men working in the same shops," and that "union men do all in their power to get non-union men in said shops to join the union." But three years later the union at its annual session voted down a resolution "that it should not be considered to the interest of the International Union for men to cease work in a shop where one man refuses to conform to union principles."⁴ This change in attitude was probably owing largely to the rapid increase in the strength of the union from 1867 to 1870.

From the foregoing survey it appears that the same stages in the development of the closed-shop rule have been repeated in union after union. There are a few American trade unions even today that are no further advanced

¹ Owing to industrial depression, the union was compelled as late as 1877 to sanction the employment of its members in unorganized foundries at the same wages as non-union men (*Iron Molders' Journal*, June, 1877, p. 361).

² Proceedings of the Seventh Annual Session, 1866, p. 28.

³ Proceedings of the Eighth Annual Session, 1867, p. 53.

⁴ Proceedings of the Tenth Annual Session, 1870, p. 26. It is interesting to note in this connection that at the convention of the Bricklayers and Masons in 1869 a committee recommended that "the question of allowing union bricklayers to work for bosses employing five non-union bricklayers be left with the local unions." The recommendation was defeated. In both this case and that of the Molders just mentioned, if the proposals had been adopted a compromise would have been effected. Non-unionists would not have been entirely excluded from employment with union men, but the number allowed in "organized" shops would have been severely limited.

toward a closed-shop rule than were the Printers of New York or Philadelphia in the first years of their organization. The two associations of Post Office Clerks, the Stationary Engineers, and the Letter Carriers do not require non-members to conform to any of the regulations adopted for the control of members. The objects of these unions are to secure legislation and to provide a system of benefits. They do not bargain collectively with their employers. The Steel Plate Transferers have no wage scale, sign no agreements, and allow individual bargaining, but there is an unwritten rule that union members shall secure employment for each other in preference to non-members.

A second class of unions have no objection to their members' working with non-members, but insist that the latter shall observe the union trade regulations. No member is allowed to obtain employment in a shop where a strike is in progress, but there is no organized resistance if the employer retains "scabs" or strike-breakers in his employment after a strike has been settled. In reality, the "scab" under such circumstances is ostracized, with the result that sooner or later he usually leaves his job. The unions which take this position with reference to the closed shop are the four railroad brotherhoods, namely,¹ the Engineers, the Firemen, the Conductors, and the Trainmen, together with the Switchmen, the Car Workers, the Maintenance-of-Way Employees, the Masters, Mates and Pilots, and the Railroad Telegraphers. All of these organizations, as will be noted, are connected with the work of transportation.

The great majority of American labor unions fall in the third class and accept the principle of the closed-shop rule. Whether they insist upon its enforcement or not depends largely upon expediency. It often happens that a union which would like to enforce the closed shop is compelled to tolerate non-unionists. The Commercial Telegraphers and the Textile Workers,² for instance, allow their members to

¹ When first organized in 1863, it seems that the Engineers demanded a closed shop. See below, p. 37.

² In a few cases local unions of the Textile Workers have struck against the employment of non-unionists, but their action has not had the sanction of the national "emergency board."

work in open shops because they are not strong enough to do otherwise. In every closed-shop union there are times when it is inexpedient to attempt the exclusion of non-unionists. There are thus a few open shops in the jurisdiction of almost every closed-shop union. It is customary for the unions to insist that members employed in these shops shall receive union wages.¹ In many cases the unions also require that non-union men shall be employed under union conditions before union men can go into the shops.

¹ Glass Bottle Blowers, Proceedings of the Thirtieth Annual Session, 1906, p. 254.

CHAPTER II.

THE HISTORY OF THE CLOSED-SHOP MOVEMENT.

In the preceding chapter it has been shown that the Printers, Cordwainers, and Tailors had developed the closed shop fully by about 1835. A similar movement had begun among the Hatters. In 1822 three workmen of that trade in New York City refused to work with journeymen who were not members of a local hatters' society.¹ Whether the closed shop had been adopted prior to 1835 by societies in any trades other than the four mentioned cannot be ascertained from existing data. It seems likely that the shipwrights, house carpenters, and other organized workmen followed the same policy. An interesting piece of evidence in this direction is found in a complaint made by the master house carpenters of Philadelphia against the "Trades' Union" of that city in 1836. The Trades' Union was a central labor organization, with which the society of journeymen carpenters was affiliated. The Trades' Union, said the masters, encouraged strikes. But, they declared, "the evil does not rest here, [because] in order to ensure the growth and continuance of the combination, it is arrogantly required, that no master workman shall employ any Journeyman who is not a member of the Trades' Union."² The language of the protest may be construed to mean that every organization affiliated with the Trades' Union enforced the closed shop or even that members of one union refused to work with non-unionists of another trade, but it is more probable that the masters referred only to the policy of the Carpenters. In the same year two journeymen plasterers were brought before the recorder's court of Philadelphia charged with con-

¹ *The People v. Trequier, 1 Wheeler's Criminal Cases*, p. 142.

² *The Pennsylvanian*, March 17, 1836, p. 2. Article reprinted in *Documentary History of American Industrial Society*, Vol. VI, edited by Commons and Sumner, p. 51.

spiracy because of their refusal to work for an employer who would not discharge another journeyman "not a member of the Trades' Union."¹

In 1846 the Carpet Weavers probably enforced the closed-shop rule, since their constitution provided that when an operative went from one factory to another he must secure a certificate "to present to the President or Committee of the Factory he goes to."² In 1854 the cigar makers' unions of New York State, as has been mentioned, refused to work with "scabs," while in 1856 the Baltimore society took the same attitude toward all non-union men.³ In 1855 the Iron Molders⁴ and in 1858 the Hollow Ware Glass Blowers⁵ and the Mule Spinners had begun to develop the closed-shop rule.⁶ The Glass Blowers were probably the first national union to adopt a rule as to what persons its members might work with. In 1857 and 1858 many local unions of the Stone Cutters reported that they had refused to work with journeymen who would not become members.⁷

If the available evidence is summed up, it may be said that practically every trade union formed prior to the Civil War was in favor of excluding non-members from employment. Often, of course, they were not able to carry this policy into practice. Moreover, the numerous prosecutions for conspiracy brought against the trade societies from 1806 to 1842 undoubtedly acted as a deterrent on the development of a rigid closed-shop policy. In practically all of these trials of which the reports have been preserved it was the exclusion from employment on which greatest stress was laid by the prosecuting officers. Except in the cases of the Hudson Shoemakers (1836) and the Philadelphia Plasterers

¹ National Laborer, July 16, 1836. Article reprinted in Commons and Gilmore, Vol. IV, pp. 338-341.

² Weekly Tribune, September 12, 1846. Article reprinted in Documentary History of American Industrial Society, Vol. VIII, edited by Commons, pp. 240-242.

³ See above, pp. 27-28.

⁴ See above, pp. 29-30.

⁵ See above, p. 28.

⁶ See above, p. 29.

⁷ Stone Cutters' Circular, September, 1857, p. 1; June, 1858, p. 5.

(1836), the juries returned verdicts of guilty. Light fines were ordinarily imposed upon the defendants, but in the case of the New York Tailors (1836) the court, in spite of a recommendation for clemency, fined the president of the society a hundred and fifty dollars, one member, "who made himself particularly conspicuous," a hundred dollars, and the remainder fifty dollars each. The leniency of the courts was owing in part to the belief that the defendants had "erred from a mistake of the law," as Mayor DeWitt Clinton said in passing sentence upon the New York Cordwainers. Another reason doubtless was that the combinations had not as yet attained such power as to incite fear.

All of the conspiracy cases aroused much interest and excitement at the time. After the trial of the Baltimore Cordwainers, for instance, the fear was expressed in some of the local newspapers "that the verdict would prove a death blow to every organized society."¹ While this was not the case, it is evident that the cordwainers' societies against whose members convictions were secured were less active in discriminating against non-members for a considerable period after their respective trials. Mayor Clinton warned the New York society members in 1809 "so to alter and modify their rules and their conduct, as not to incur in the future the penalties of the law."² That this was done may be inferred from a remark of the prosecuting attorney in the Philadelphia Tailors' case (1827), who said that the exclusive employment of society members had been required by the Cordwainers in New York "until the firmness and independence of a Court and Jury put an end to it there."³ Indeed it is "barely possible that the difficulty of carrying out strikes or other strategic industrial measures without conflict with the common law principle of criminal conspiracy may have been one of the causes which . . . induced trade societies in various parts of the country to aban-

¹ Glocker, "Trade Unionism in Baltimore before the War of 1812," in Johns Hopkins University Circular, April, 1907, p. 28.

² Commons and Gilmore, Vol. III, p. 385.

³ Ibid., Vol. IV, pp. 177-178.

don their industrial aims, or, at least, to conceal them under benevolent activities."¹ Those who were opposed to labor combinations felt assured, at any rate, that they had put "an end to those associations" which had been "so prejudicial to successful enterprise of the capitalists . . . and so subversive to the best interests" of the country.²

With the great spread of trade unionism in the thirties the societies again began, as has been noted, to enforce the closed shop. The decision of Chief Justice Savage of the supreme court of judicature of the State of New York in the Geneva Shoemakers' case³ in 1835 was a severe blow to this development. The outcome of the Hudson Shoemakers' case the year following was hailed by the unionists as "rescuing the rights of the Mechanics from the grasp of Tyranny and Oppression."⁴ A note of elation over the victory for the closed shop in the Philadelphia Plasterers' case in 1836 was also sounded in the *National Laborer*.⁵ From this time onward verdicts and decisions adverse to the right of society members to discriminate against non-members caused the unions much less apprehension than before.

From 1860 to 1870 the union which pursued the closed-shop policy with the greatest energy was the Molders. During this period notices constantly appeared in their journal, warning workmen that they must carry union cards in order to obtain employment in certain localities.⁶ The activity of the union in enforcing this rule called forth a protest from employers in 1863, when the Iron Founders and Machine Builders' Association of the Falls of the Ohio in an address to the trade declared that discrimination

¹ Glocker, p. 28.

² Preface to the Report of the Trial of the Journeymen Cordwainers of the Borough of Pittsburgh. Commons and Gilmore, Vol. IV, pp. 16-17.

³ *People v. Fisher*, 14 Wendell (N. Y.), 9.

⁴ From the title page of the report of the trial of the Hudson Shoemakers. Commons and Gilmore, Vol. IV, p. 277.

⁵ July 16, 1836. Article reprinted in Commons and Gilmore, Vol. IV, p. 338.

⁶ *Iron Molders' Journal*, July, 1864, p. 44; August, 1864, p. 38.

against non-unionists meant "arbitrary interference with the business management" of employers.¹

In 1864 the Ship Owners and Ship Builders' Association of Buffalo in a circular to vessel owners asked them to discriminate against members of the Ship Carpenters and Caulkers' Union, which had become so "obnoxious, . . . dictatorial, . . . ruinous and monstrously exorbitant" in its demands as to assert that "this man or that, shall not be employed unless he first becomes a member of their union."² Even more interesting are the resolutions adopted by the board of directors of the Galena and Chicago Union Railroad Company in the same year. The text of the resolutions leads one to infer that the "Brotherhood of the Footboard," now known as the Brotherhood of Locomotive Engineers, demanded the right to "dictate" to the railroad company "whom they shall or shall not employ."³ When in July, 1864, an attempt was made to organize a general association of employers to combat the "dangerous attitude" of labor, the appeal for a convention set forth that the unions assumed "to dictate to employers . . . who shall be discharged and who retained; when, and on what terms our establishments and business may be operated."⁴

From the late sixties on, the closed shop assumed increasing importance among union policies. Industrial development was proceeding on a tremendous scale, while every year the stream of immigration increased. Scattered local

¹ Fincher's Trades Review, October 3, 1863. Article reprinted in Documentary History of American Industrial Society, Vol. IX, edited by Commons and Andrews, pp. 89-97.

² Ibid., April 2, 1864. Article reprinted in Commons and Andrews, Vol. IX, pp. 104-105.

³ Ibid., June 4, 1864. Article reprinted in Commons and Andrews, Vol. IX, p. 107. The Brotherhood of the Footboard was organized on August 17, 1863. Its demand for the closed shop at this period in its history may, perhaps be explained by the fact that as first constituted it included foremen and machinists as well as engineers. On February 23, 1864, however, it limited its membership to locomotive engineers (Kennedy, "Beneficiary Features of American Trade Unions," in Johns Hopkins University Studies in Historical and Political Science, Ser. XXVI, Nos. 11-12, pp. 19-20).

⁴ Ibid., August 13, 1864. Article reprinted in Commons and Andrews, Vol. IX, p. 109.

unions were rapidly formed into national organizations. All the conditions were favorable to the development of a policy of exclusion.

From 1868 to 1873 the Knights of Saint Crispin, an organization of journeymen shoemakers, carried on eight strikes against the employment of non-union men. All but one of these ended in failure.¹ Other organizations, such as the Coopers, Granite Cutters, Sons of Vulcan, and the Iron and Steel Roll Hands made vigorous demands for the closed shop from 1870 to 1880, and in some cases² inserted rules in their national constitutions forbidding members to work with or aid non-members. Unions like the Iron Molders, Cigar Makers, Hatters, and Typographical Union enforced the closed shop with increasing strictness. In 1873 the editor of the Iron Molders' Journal declared that from what he had heard and seen it was a "risky business to travel without a card."³ The unions of the building trades, notably the Bricklayers and Masons and the Carpenters, were also strongly in favor of the closed shop, and soon reached a preeminence in its enforcement which they have retained until the present day.

Two important advances in closed-shop policy were also well under way by 1875. In the first place, arrangements were effected between different unions of allied trades under which "scabs" and other non-unionists were discriminated against jointly by such unions. Secondly, the initial impulse had been given to a movement to make an employer's entire business and not a single shop the "unit" of the closed "shop." Material made by non-unionists was also discriminated against. The development of these forms of discrimination will be treated in the respective chapters

¹Third Annual Report of the Commissioner of Labor, 1887, pp. 1052-1055.

²Sons of Vulcan, Constitution, 1874, Subordinate Forge, Art. XI, Sec. 3. Iron and Steel Roll Hands, Constitution, 1874, Constitution of Subordinate Lodges, Art. XII, Sec. 3. In 1876, on the amalgamation of these two unions into the Amalgamated Association of Iron, Steel and Tin Workers, the closed shop was provided for in the latter's constitution for subordinate lodges, Art. XV, Secs. 1, 2.

³Iron Molders' Journal, August, 1873, p. 69.

devoted to them, under the captions "Joint Closed Shop" and "Extended Closed Shop."

An influence which made strongly for the increasing popularity of the closed shop from 1880 on was the trade-union label. The first label was adopted by the Cigar Makers' Association of the Pacific Coast in 1875,¹ and in 1880 a national organization, the Cigar Makers' International Union, adopted this device.² Within the next ten years the Knights of Labor and nine national unions followed this example.³ From that time forward labels came into use among the unions with increasing rapidity. The label was issued only to shops which employed union members exclusively.⁴ The number of closed shops in many unions was soon materially increased by the demand for label goods. Still more important, however, was the influence of the label upon unions which had heretofore been indifferent concerning the closed shop. By the propaganda for the sale of label goods attention was called to the fact that the label stood for the closed shop as opposed to open-shop and non-union conditions. The effect of advertising the closed shop by the "label trades" was to arouse interest in the same policy in other unions.

The campaign for the closed shop was carried on among a large number of unions between the years 1885 and 1893. The strong closed-shop unions already mentioned were joined by the Lasters, Glass Bottle Blowers,⁵ Window Glass Workers,⁶ Flint Glass Workers, Machinists, and many local

¹ Spedden, "The Trade Union Label," in Johns Hopkins Studies in Historical and Political Science, Ser. XXVIII, No. 2, p. 10.

² Ibid., p. 14.

³ Ibid., p. 18.

⁴ Until 1883 the Cigar Makers allowed the label to be used on the product of a union member who worked in the same shop with non-unionists (Ibid., p. 51).

⁵ Then known as Knights of Labor, District Assembly No. 149.

⁶ In 1889 the president of the Window Glass Workers, Local Assembly 300, Knights of Labor, stated in his report that since the formation of the Universal Federation of Window Glass Workers, an international organization of European and American unions, there had not been "one single non-union factory in the country" (Report of the Fifth Convention, 1889, p. 21). This condition is said to have continued down to 1903. By 1888 both the Local

unions in the metal, printing, building,¹ and miscellaneous trades. In a few of the building trades unions, as for example the Painters, the closed shop was practically obligatory on all local unions. Everywhere the movement progressed in spite of doubt in the minds of some labor leaders as to whether the exclusion of non-unionists from employment was beneficial to their organizations.²

Strike statistics from 1881 to 1893 indicate the spread of the closed-shop movement.³ In 1881 the number of strikes called for "the recognition of the union and union rules"⁴ amounted to 12.1 per cent. of all strikes called by labor organizations; the number of establishments involved in such strikes was 1.19 per cent. of all struck establishments, and the number of persons involved was 4.2 per cent. of the total number. By 1892 the percentages had increased very considerably, so that they were respectively 21.5 per cent., 29.1 per cent., and 27.3 per cent. During the intermediate years, with some exceptions, the increase in percentage was fairly regular. The statistics for lockouts⁵ in the same period also show that an increasing part of the lockouts

Assembly 300 and District Assembly 149, Knights of Labor, had made provision in their constitutions that their members should not work except in closed shops.

¹ Local unions of the Painters, Carpenters, Plumbers, and Bricklayers from 1885 on frequently notified workmen in their trades as follows: "None but union men need apply." "All shops have recognized the union." "No non-unionist recognized." "No card, no work."

² Professor R. T. Ely in his *Labor Movement in America* (p. 160), published in 1886, says, "Some of the most intelligent trades-unionists think that the refusal to work with a non-union man is indefensible and injurious to the cause of labor."

³ Compiled from the Twenty-first Annual Report of the Commissioner of Labor, 1906 (pp. 42, 56). The percentages given here are somewhat higher than those of the report, since no account is taken of strikes by unorganized workers.

⁴ "Under the cause 'concerning recognition of union and union rules' are classed the various causes relative to dealing with union officials and the adoption or enforcement of rules and regulations of unions governing the work of their members, one of the most frequent and important rules being against working with non-union men" (Twenty-first Annual Report of the Commissioner of Labor, 1906, p. 113).

⁵ Twenty-first Annual Report of the Commissioner of Labor, 1906, pp. 70-71.

was caused by closed-shop and "recognition" demands. In 1881 such lockouts amounted to 16.6 per cent. of all lockouts and in 1892 to 36.06 per cent. Even higher were the percentages for 1887, 1888, 1890, and 1891.

Not only did individual employers, like the Birmingham Rolling Mill Company in 1884¹ and the Carnegie Steel Company in 1892,² lock out union employees because they demanded the closed shop, but associations of employers also pursued the same policy. In 1887 the Granite Manufacturers' Association of Boston locked out their men "on the specious plea of individualism" when the union men refused to work with "scabs."³ In the same year the Master Masons of Providence, Rhode Island, notified the local union of bricklayers that men would be hired solely as individuals and not as unionists.⁴ The following year the Master Stonemasons of St. Louis voted that work should be given "to every journeyman mason whether belonging to the Union or not."⁵ In 1891 the painters' union of Milwaukee was notified by the masters that they had agreed not to "discharge non-union men on account of union matters."⁶ Similarly the brick contractors of Zanesville, Ohio, in 1892 refused to recognize the closed shop. At the national convention of the Master Painters in 1892 a delegate urged the adoption of a system of individual agreements on the ground that agreements with unions were bound to result in closed-shop conditions. While the speaker was heartily applauded, no action was taken on his recommendations.⁷

During this period, although the unions were so actively

¹ Amalgamated Association of Iron, Steel and Tin Workers, Proceedings of the Ninth Annual Convention, 1884, p. 1361.

² *Ibid.*, Proceedings of the Eighteenth Annual Convention, 1893, pp. 4250-4251.

³ Painters' Journal, July, 1887, p. 2. This position was maintained by the Association until 1902, when it agreed to eliminate the "non-discrimination clause" in its contracts with the Granite Cutters (Granite Cutters' Journal, May, 1902, p. 6).

⁴ *Ibid.*, Proceedings of the Twenty-first Annual Convention, 1887, p. 24.

⁵ Bricklayers and Masons, Proceedings of the Twenty-second Annual Convention, 1888, p. 45.

⁶ Painters' Journal, May, 1891, p. 4.

⁷ *Ibid.*, April, 1892, p. 3.

engaged in extending the closed shop, comparatively little discussion of the question is found. The most important pronouncement by a representative labor body in favor of the closed shop in this period was that made by the American Federation of Labor in 1890. In a resolution, the first expression of its views on the subject, the Federation declared that it was "inconsistent for union men to work with non-union men, especially when they are displacing their fellow unionists, who may be engaged on strike or lockout."¹ It will be noted that this resolution is not an unqualified endorsement of the closed shop. As yet public interest in the question was slight.

The right to strike against non-union workmen came before the higher courts in some fourteen cases from 1850 to 1898.² In a majority of these cases strikes for the closed shop were declared to be either criminal or tortious. Yet these adverse decisions exercised no apparent influence on trade-union policy.

In the depression following the panic of 1893 the unions sustained severe losses. The percentage of strikes involving "recognition of union and union rules" greatly decreased, while the percentage of lockouts for the open shop increased. An examination of the union journals also indicates that the unions were forced in many places to concede the open shop. In 1892, for example, as many as thirty local unions inserted "no card, no work" notices in the *Iron Molders' Journal*. In 1894 only ten or twelve continued the practice. The Bricklayers and Masons, always a strong

¹ Report of Proceedings of the Tenth Annual Convention, 1890, p. 40.

² *State v. Donaldson* (1867), 3 Vroom (N. J.), 151; *People v. Smith* (1887), 5 N. Y. Crim. R., 509; *Crump v. Commonwealth* (1888), 84 Va., 927; *State v. Dyer* (1894), 67 Vt., 690; *Fischer v. State* (1898), 76 N. W., 594; *Snow v. Wheeler* (1873), 113 Mass., 179; *Mayer v. Journeymen Stonecutters*, 47 N. J. Eq. R., 519; *Longshore Printing Co. v. Howell* (1894), 26 Ore., 527; *Clemmitt v. Watson* (1895), 14 Ind. R., 38; *People v. Davis* (1898), *Chicago Legal News*, Vol. 30, p. 212; *Chipley v. Atkinson* (1887), 23 Fla., 206; *Old Dominion Steamship Co. v. McKenna*, 30 Fed., 48; *Lucke v. Clothing Cutters Assembly* (1893), 77 Md., 396; *Perkins v. Pendleton* (1897), 90 Me., 166; *Davis v. United Portable Hoisting Engineers*, 51 N. Y. Supple., 180.

union, reported an unusual number of "scabs" in 1893 and 1894. Other unions like the Painters¹ and United Green Glass Workers² were compelled openly to acknowledge that it was impossible to keep union men from working with "scabs" and in "non-union" shops.

With the increase in business activity which followed the Spanish-American War a new period in the history of the closed shop began. On account of the great demand for workers, trade unions were able to secure better hours, wages, and working conditions. Their membership increased very rapidly. Contemporaneously the number of strikes for the "recognition of the union and union rules" grew. The number of such strikes was twice as great in 1899 as in 1898; in 1901 they were five times as numerous as in 1898, and amounted to 36.4 per cent. of the total number of strikes called by labor organizations.

The unions began to insist that the employers should sign written agreements in which the closed shop was conceded. Hitherto, verbal understanding had ordinarily sufficed, or the closed shop had rested only upon custom. It seemed to many unions that while business was active, definite written agreements should be drawn up limiting employment to union members.³ In all parts of the country it became increasingly difficult for non-unionists to obtain employment. In New York the building trades had almost absolute control under their arbitration agreement. In other cities, like San Francisco and Chicago, the closed shop was enforced more widely than ever before. "Unionism ran riot. . . . The newsboys, the sandwich vendors, even the girls who sold chewing gum on the streets were organized. Civil Ser-

¹ Yet the Painters in 1893 announced that none but union men would be allowed to secure a job on the buildings of the Columbian Exposition at Chicago (Painters' Journal, January, 1893, p. 2).

² Proceedings of the Nineteenth Annual Session, 1895, p. 103; Proceedings of the Twentieth Annual Session, 1896, p. 102.

³ Another evidence of the increasing importance attached to the closed shop during this period was the fact that the ordinary membership card in a union was superseded by the "working card." It soon became customary to speak of the "working card system," meaning thereby the closed shop.

vice in municipal affairs gave way to the closed shop."¹ In smaller places, like Streator, Illinois, the unions boasted that it was "impossible for a man or woman to obtain work on any job, skilled or unskilled, without first belonging to a labor organization and carrying a union card."² While there was some exaggeration in these reports, they show with what enthusiasm the unions everywhere took up the idea of a universal closed shop.

On the employers' side dissatisfaction with these conditions was widespread. Moreover, the trend of industrial development had increased the power of the employers to oppose the unions. In all industries business was conducted on a larger scale than heretofore; in many, trusts had been formed. Even in the building industry the great construction company had to a large extent taken the place of the small contractor. Furthermore, in many leading industries employers' associations had been formed, whose members could be relied upon to stand together in dealing with the labor problem. The employers realized that the closed shop was the key to the labor situation. To rid themselves of irritating shop rules, therefore, they set out to destroy the system whereby unions enforced them.

The struggle which followed was one of the most severe ever faced by organized labor. The first of the employers' associations seriously to oppose the closed shop was the National Metal Trades Federation. In 1901, after a general strike of the Machinists,³ the Federation resolved that, "while disavowing any intention to interfere with the proper functions of labor organizations," it would not admit union dictation in the management of business.⁴ For a time the Metal Trades Federation was the only national em-

¹ Marcossou, "The Fight for the Open Shop," in *World's Work*, December, 1905, p. 6961.

² *The Union Boot and Shoe Worker*, July, 1901, p. 18.

³ For a more detailed account, see Hilbert, "Employers' Associations in the United States," in *Studies in American Trade Unionism*, edited by Hollander and Barnett, p. 202. One or two local employers' associations like that of Dayton, Ohio, had already advocated the open shop, but their influence was not great.

⁴ *American Industries*, April 1, 1903, p. 13.

ployers' association in active opposition to the closed shop.

The next blow to the closed shop came from an unexpected quarter and, partly on that account and partly because of attendant circumstances, created strong public sentiment in favor of the open shop. In 1902 the Anthracite Coal Strike Commission was appointed by President Roosevelt to arbitrate the great miners' strike of that year. Among other things the United Mine Workers asked that the mine operators enter into an agreement with them for the purpose of "specifying the conditions of employment which shall obtain."¹ This demand was interpreted both by the operators² and by the non-union men³ as a demand for the closed shop. The award of the Commission, given on March 18, 1903, granted practically every demand of the strikers except that for an agreement. The Commission absolutely forbade the establishment of the closed shop in the anthracite industry during the period which the award covered. Section IX of the award reads as follows: "The Commission adjudges and awards: That no person shall be refused employment, or in any way discriminated against, on account of membership or non-membership in any labor organization; and that there shall be no discrimination against, or interference with, any employee who is not a member of any labor organization by members of such organization."⁴ A number of labor leaders, notably Mr. Gompers, contended that the award was not to be construed as unfavorable to the closed shop. According to this view, the Commission intended merely to maintain the status quo; indeed, it "had particularly in mind to warn the operators against future discrimination against union men."⁵ The interpretation of the public was different.

The award of the Commission aroused great interest

¹ Bulletin of the Department of Labor, No. 46, May, 1903, p. 520.

² Ibid., p. 527.

³ In a statement to the Commission the non-unionists said, "Any agreement, if made, will render it impossible for us to continue to earn our living by our labor in and about the mine in which we are now employed, or to which such agreement applies" (Ibid., p. 521).

⁴ Ibid., p. 509.

The Union Boot and Shoe Worker, September, 1904, p. 3.

throughout the country, discussion centering particularly on the question of the open shop. Employers who had hitherto been fighting a losing battle with the unions were much encouraged by the award, since it proceeded from what was generally considered an impartial tribunal. Individual employers and associations of employers which had not been moved to action by the example of the Metal Trades Federation felt that they must seize the opportunity to enlist in the fight for "individual liberty."

In April of the same year the National Association of Manufacturers, an organization which had not hitherto concerned itself with labor questions, proceeded "amidst great enthusiasm" to adopt a declaration of principles among which was incorporated, word for word, the open-shop section of the coal strike award.¹ In 1902 and 1903 there came into existence in numerous cities organizations known as "Citizens' Alliances." Their agitation for the open shop was so active as to engender much apprehension among unionists. By 1906 practically every city of importance had its Alliance. In many of the larger cities general employers' associations also were formed, most of which were strongly in favor of the open shop.

Much moral encouragement was given at this time to the opponents of the closed shop by the outcome of the celebrated Miller case in the Government Printing Office at Washington. The facts in the case are as follows: One W. A. Miller, an assistant foreman in the bindery division of the Government Printing Office, was suspended and later, on May 13, 1903, expelled from Local Union No. 4 of the International Brotherhood of Bookbinders. Upon notification to this effect, the public printer on the following day discharged Miller from his position because, as he said, "the bookbinders of the Government Printing Office are all members of Local Union No. 4 of the International Brother-

¹ Proceedings of the Eighth Annual Convention, 1903, pp. 165-169. In 1904 a further article was added to the declaration of principles, stating that the Association declared "its unalterable antagonism to the closed shop" (Proceedings, 1904, p. 173).

hood of Bookbinders and under the rules of the organization are prohibited from working with a member under ban."¹ Technically the discharge was "for the good of the service."

Upon complaint of Miller to the Civil Service Commission, an investigation was made. It was proved that Miller had been compelled to relinquish his position solely because he had been expelled from the union and not because he was inefficient. The Civil Service Commission accordingly on July 6 requested the public printer to reinstate Mr. Miller at once. "No person," it ordered, "shall be removed from a competitive position except for such cause as will promote the efficiency of the public service. The Commission does not consider expulsion from a labor union, being a body in no way connected with the public service nor having authority over public employees, to be such a cause as will promote the efficiency of the public service."² A week later President Roosevelt himself ordered the reinstatement of Miller, on the ground that "on the face of the papers presented, Miller would appear to have been removed in violation of law." In a letter to the secretary of commerce and labor on July 14 the President set forth his views on the question. Calling the attention of the secretary to the award of the Anthracite Coal Strike Commission, quoted above, he said: "I heartily approve of this award and judgment by the Commission appointed by me, which itself included a member of a labor union. This Commission was dealing with labor organizations working for private employers. It is, of course, mere elementary decency to require that all the Government Departments shall be handled in accordance with the principle thus clearly and fearlessly enunciated."³

The action of the President and of the Civil Service Commission attracted the widest attention among both unions and employers. The President's vigorous pronouncement

¹ 58th Cong., 2d sess., H. Doc. No. 644, p. 148, Twentieth Report of the Civil Service Commission, 1902-1903.

² *Ibid.*

³ *Ibid.*, p. 149.

served to swing public feeling to an appreciable extent to the side of the opponents of the closed shop. The labor unions received the President's decision with sharp criticism. Committees were sent to Washington to persuade him to revoke his order, but he declared his decision "final."¹

The great increase in the number of employers' associations and citizens' alliances and their deepening hostility toward the closed shop² led in October, 1903, to the organization of the "Citizens' Industrial Association of America." David M. Parry of Indianapolis, president of the National Association of Manufacturers and a bitter partizan of the open shop, became its first president. The new organization was designed to centralize the opposition to unionism and to the closed shop. In December, 1903, its executive committee declared that labor in demanding the closed shop was "seeking to overthrow individual liberty and property rights," and resolved that the "right hand of fellowship should be held out to all free and independent workmen, and especially, that a guarantee of full safety be offered to those now in the ranks of union labor who desire to escape the tyranny of the same."³

The example set by the Metal Trades Association, the National Association of Manufacturers, the Citizens' Alliances, and the Citizens' Industrial Association of America

¹ 58th Cong., 2d sess., H. Doc. No. 644, p. 148, Twentieth Report of the Civil Service Commission, 1902-1903, p. 150. On July 25 Miller returned to work. That the President's order had a temporary effect, at least, is shown by the fact that when the International Typographical Union attempted to levy a ten per cent. assessment in 1905-1907, many of its members working in the Government Printing Office refused to make payment. See Barnett, p. 289. At the present time the closed shop has practically been reestablished. As early as February, 1906, the *Printing Pressman* (p. 100) reported that the "frequent allusions to the open shop intended to apply to the Government Printing Office has really no meaning."

² "Many employers who previously, without much urging, recognized the closed shop have been carried along with it [open shop sentiment], and now avow their determination to resist the closed shop at whatever cost" (White, "The Issue of the Open and Closed Shop," in *North American Review*, January, 1905, p. 30).

³ Proceedings of the Preliminary Convention, October, 1903, and also the First Meeting of the Executive Board of the Association, p. 17.

was immediately followed by a great number of national and local employers' associations in different industries.¹ In all parts of the country "open-shop movements" were inaugurated. Employment bureaus were established as a means of preventing the dependence of workmen upon the "walking delegate," while educational campaigns were instituted for the purpose of "enlightening the American people on the greatest question which has confronted them since the Revolutionary War."² The employers of Los Angeles and of Washington, D. C., endeavored to convert these cities into "model open-shop towns." "Open-shop schools" were established for the training of printers, telegraphers, tailors, and machinists.³ A number of the largest American corporations joined the open-shop movement. Among them were the United States Steel Company with its subsidiary corporations, the American Tobacco Company, the Macbeth-Evans Glass Company, the Baldwin Locomo-

¹ The following employers' associations declared themselves opposed to the closed shop:—

National Associations.

American Anti-Boycott Association, National Association of Agricultural Implements and Vehicle Manufacturers, National Master Bakers' Association, National Building Trades Employers' Association, Cap Manufacturers' Association, National Association of Clothiers, National Association of Erectors of Iron and Steel, National Founders' Association, National Association of Employing Lithographers, National Association of Marble Dealers, International Association of Master House Painters and Decorators, National Association of Master Sheet Metal Workers, Stove Founders' National Defence Association, Merchant Tailors' National Protective Association, United Typothetae of America. The United States Brewers' Association was suspected of open-shop sympathies, but never went on record in opposition to the closed shop.

District Associations.

Lake Carriers' Association, Managers of Docks of Lake Erie Ports, Inter-state Builders, Contractors and Dealers Association (New England), Iron League of New York.

² Thus, in 1901 the National Metal Trades Association began the publication of a magazine called the "Open Shop." It was continued until March, 1908, when it was merged with the "Review" and published in cooperation with the National Founders' Association.

³ The unions declare that these schools are centers for training strike-breakers.

tive Works, the American Can Company, and Cramps' Ship Yards. The public press for the most part warmly advocated the open shop.

A considerable number of the opponents of the closed shop took pains to declare that they were not opposed to trade unions, but merely to the exclusion of non-unionists from employment. It will be proper to consider at this point how far the "fight for the open shop" was a fight against unionism. In many cases employers, after refusing to sign further closed-shop agreements, did sign genuine open-shop contracts. The agreement drawn up in 1903 between the Bridge and Structural Iron Workers and two organizations of employers, namely, the National Association of Manufacturers and the Structural Steel Erectors' Association, is an instance.¹ This agreement contained the following provisions:—

1. No restriction of material.
 2. No union control over the appointment or the work of the foremen.
 3. No sympathetic strikes.
 4. No outside persons to interfere with workmen during working hours.
 5. Employer to have full power to hire or discharge as he sees fit; membership in a labor union to have no influence in either hiring or discharging.
 6. No interference with laborers loading or unloading materials.
 7. Employees to be at liberty to cease work at any time.
- Other agreements of the same kind might be cited.

But while a large number of employers established open shops and made no discrimination between union or non-union men, others refused to employ union men. Mr. David M. Parry, in an address before the first convention of the Citizens' Industrial Association of America, declared that if the unions "take the position that there must be discrimination against independent labor as the price for the employment of union labor," it becomes the "duty of the

¹ The Bridgeman's Magazine, May, 1903, p. 12.

employer to discriminate against union labor."¹ Other employers did not refuse to hire union men provided they applied as individuals, but they were unwilling to make agreements with the unions. Among the employers' associations which took this position were the Mason Builders' Association of Montreal (1908), the Iron League of New York City and Vicinity (1906), and the Builders' Exchange of Jacksonville, Florida (1907). In Des Moines, Iowa, in 1904, the Citizens' Industrial Alliance is reported to have posted open-shop rules in the establishments of its members, and to have advised the discharge of union men who asked non-unionists employed in those places to become members of the union.² Undoubtedly, the anti-union shop and not the open shop was desired by many of the employers who engaged in the open-shop crusade.

The issue offered by the employers' associations in their attack on the closed shop was met directly by the unions. On September 30, 1903, the executive council of the American Federation of Labor issued a bulletin declaring that the "trade union movement stands for the strictly union shop."³ At the Boston convention in November of the same year the Federation placed itself on record as "being in favor of the union shop everywhere, as well in federal, state and municipal employment as in private enterprises."⁴ Union after union by resolution indorsed the closed shop,⁵ and the officers of the unions in their reports repeatedly warned the

¹ Proceedings of the Adjourned Session of the First Convention, 1904, p. 11.

² The Bricklayer and Mason, June, 1904, p. 69. The H. Marcus Skirt Company of New York City in 1906 required each of its workmen to sign an individual agreement not to join a union or to enter into a strike for a year while at work "as an individual in the open shop" of the company (People v. Marcus, 185 N. Y., 257).

³ American Federation of Labor, Report of Proceedings of the Twenty-third Annual Convention, 1903, p. 89.

⁴ Ibid., p. 211. President Gompers also commented on the open-shop movement in his reports for 1903, 1904, 1905, and 1907.

⁵ Elevator Constructors, Glove Workers, Flint Glass Workers, Musicians, 1904; Electrical Workers, Sheet Metal Workers, 1905; Printing Pressmen, Theatrical Stage Employees, 1907; Bricklayers and Masons, Bridgemen, Longshoremen, 1908. Various state federations of labor also approved closed-shop strikes carried on within their jurisdictions.

members against yielding to the demand for the open shop. The Industrial Workers of the World in their manifesto for 1905 and the Trades and Labor Congress of Canada at its twenty-first annual convention, 1905,¹ expressed their approval of the closed shop.

There were, nevertheless, some dissenting voices in a few unions, such as the Slate and Tile Roofers,² and propositions to endorse the closed shop were defeated on the ground of expediency. In others, such as the Printing Pressmen and the Bridge and Structural Iron Workers, the open-shop question occasioned bitter disputes. President Higgins and the executive board of the Pressmen, who had signed an open-shop agreement with the United Typothetae of America,³ were defeated for reelection. At the same time the convention repudiated the agreement.⁴ The action of the Pressmen received the hearty endorsement of the American Federation of Labor.⁵ Considerable feeling was shown at the 1908 convention of the Bridge and Structural Iron Workers over an attempt to secure the passage of a resolution sanctioning the open shop. Because of the prolonged strike against the American Bridge Company and other concerns, certain delegates urged either that more drastic measures be taken or that union members be allowed to "go to work for all firms indiscriminately throughout the country." After a long and sharp debate the resolution was defeated.⁶

An examination of the strike statistics from 1900 to 1905 illustrates the importance of the open-shop issue during that period. The percentage of strikes for "recognition of union and union rules" increased steadily from 13.4 in

¹ Proceedings, 1905, pp. 47, 50.

² Proceedings of the Fourth Annual Convention, 1907, pp. 5, 6.

³ This organization includes book and job printers only. The American Newspaper Publishers' Association has never asked for the establishment of the open shop.

⁴ Constitution, 1907, Resolutions, etc., p. 85, No. 18.

⁵ American Federation of Labor, Report of Proceedings of the Twenty-seventh Annual Convention, 1907, pp. 313-314.

⁶ Proceedings of the Twelfth Convention, in the Bridgeman's Magazine for October, 1908, pp. 724-760.

1900 to 41.3 in 1905.¹ The percentage of struck establishments affected by such strikes rose from 8.5 in 1900 to 14.8 in 1905, while the percentage of strikers participating in such strikes rose from 7.3 in 1900 to 22.3 in 1905. Every State in the Union, except possibly South Dakota, and many, if not all, of the Canadian provinces² were affected by strikes for the closed shop, and almost every industry was involved at one time or another.

The fight against the closed shop has been reflected in the increasing number of judicial decisions since 1898 concerning the right to strike against non-union men and the legality of closed-shop agreements. The weight of authority has held against the closed shop. However, a number of important decisions, notably that of the *National Protective Association v. Cummings*,³ have upheld the right of unions to discriminate against non-members. The only apparent effect of the decisions adverse to the closed shop has been the encouragement they have given to the formation and growth of open-shop employers' associations. The non-union man has found little direct relief from these decisions.

Public discussion of the question of the closed shop was very active for some years following the award of the Anthracite Coal Strike Commission.⁴ The American Economic Association⁵ devoted parts of two meetings to its consideration, and the National Civic Federation organized discussions in which employers and unionists took part.⁶ Nothing apparently was gained in this way, for neither party was willing to make concessions. In 1905 an unsuc-

¹ Compiled from the Twenty-first Annual Report of the Commissioner of Labor, 1906. No statistics are available since 1905.

² Proceedings of the Twenty-first Annual Convention of the Canadian Trades and Labor Congress, 1905, p. 13.

³ 170 N. Y., 315.

⁴ "So much has been said and written in magazine, trade journals and daily press on the question of the open and closed shop, that to the average disinterested reader the question is becoming, figuratively speaking, nauseating" (Weekly Bulletin of the Clothing Trades, July 29, 1904, p. 4).

⁵ Proceedings of the American Economic Association, 1903, p. 173; also Proceedings, 1905, p. 140.

⁶ Civic Federation Review, May 15, 1905, pp. 1-4.

cessful attempt was made to secure the incorporation of an open-shop provision in the constitution of the new State of Oklahoma.¹ More recently public interest in the subject has waned.

It remains to inquire whether the events of the past decade have resulted in inducing the closed-shop unions to modify their position. To reach a satisfactory answer on this point is difficult. If spokesmen of the unions may be believed, the open-shop movement has been an absolute failure. Many of them claim that the unions have thereby been strengthened in their determination to enforce the closed shop. In Los Angeles, for instance, the citadel of the open-shop forces, the unions as early as 1904 resolved that all shops should be either "strictly union or non-union."² The Glove Workers in 1903 were forced to declare for the closed shop on account of the demand of the manufacturers that an open-shop agreement be signed. Previous to that time the union had not refused to work with non-unionists, but it was unwilling to sign an agreement to continue that policy.³

In September, 1904, General Secretary Duffy of the United Brotherhood of Carpenters declared that in his opinion the open-shop movement had done nothing more than create "a little ripple on the surface" of the industrial world.⁴ In 1905 he stated that "the first case has yet to be reported to this office where the 'open shop' policy has been forced on our members."⁵ In 1906 President Huber of the Carpenters reported that two hundred and fifty mills had been unionized during the two preceding years,⁶ while the general secretary again asserted that the open shop was a "dead issue as far as this organization is concerned."⁷

¹ The proposed section read as follows: "No person shall be denied or refused employment for the reason that he is not a member of any labor union" (*American Industries*, December 15, 1905, p. 3).

² *The Labor Compendium*, April 10, 1904, p. 1.

³ *The Elevator Constructor*, April, 1904, p. 25.

⁴ *The Carpenter*, September, 1904, p. 11.

⁵ Report of the General Secretary, 1905, p. 15.

⁶ Proceedings of the Fifteenth General Convention, 1906, p. 58.

⁷ *The Carpenter*, October, 1906, p. 22.

Other unions, as for example the Molders, declared that their membership had been steadily increasing during the very years when the struggle was most severe.¹ The Molders attributed this result directly to the hostile open-shop policy adopted by the National Founders' Association.² The officers of the Machinists, the Bricklayers and Masons, the Sheet Metal Workers, the International Building Trades' Council, and the American Federation of Labor were optimistic in their reports throughout the most trying period of the struggle.

A few unions, on the other hand, in 1904-1906 acknowledged that they had lost ground in certain localities, or admitted that they had recognized the open shop "in a way harmless to the union."³ Many other unions, such as the Bridge and Structural Iron Workers, were led by the existence of strong employers' associations and "generally disturbed conditions . . . not to make any demands."⁴ In 1907 the president of this union acknowledged that the previous year had been a "trying ordeal."⁵

The employers who fought the closed shop undoubtedly made considerable gains, but they often overstated their success. The period immediately after the Coal Strike Award and the panic of 1907 were the high water-marks in the success of the open-shop campaign. Both periods were favorable to the hostile employer; in the first, he was backed by a strong public sentiment, and in the second the unions were crippled by the scarcity of employment.⁶ In 1910

¹ *Iron Molders' Journal*, November, 1905, p. 848; August, 1906, p. 588.

² *Ibid.*, August, 1906, p. 593.

³ *Weekly Bulletin of the Clothing Trades*, January 13, 1904, p. 5.

⁴ *The Bridgeman's Magazine*, September, 1906, p. 52.

⁵ In 1907 the Bridgemen asked financial assistance from the American Federation of Labor to carry on their closed-shop dispute with the United States Steel Company, but their request was not granted.

⁶ The following table, taken from the Twenty-first Annual Report of the Commissioner of Labor, 1906, p. 626, shows the percentage of successful and unsuccessful strikes for the "recognition of union and union conditions." It will be noted that in 1904 and 1905 the

the open shop is established in the steel and meat-packing industries, and generally where industrial combination is strong. Throughout the South the open shop prevails more widely than in other sections. In Chicago, Cleveland, Detroit, Washington, and Denver the unions in many trades have had to give up the closed shop. In some smaller cities, as for example Los Angeles, there are practically no closed shops at all. In other places and in other industries than those mentioned the closed-shop unions have regained much of the ground that was lost a few years ago.

The employers' associations, on the other hand, have made gains which cannot be measured in statistical fashion. The unions have learned that they must be more conservative and tolerant in the formulation of shop rules, and the employing class as a whole has learned the value of organization. As long as the unions dealt with isolated employers it was in many cases easy for them to extort extravagant concessions. In the future, organized labor will be compelled to develop a defensive as well as an offensive policy.¹ On the other hand, as the bitterness of the recent conflict lessens, employers will realize that the destruction of the unions is not practicable. Many employers who were engaged in the open-shop struggle now disclaim any intention of fighting unions as such, and attack only the closed-shop policy. "Whether sincere or not, their recognition of the right and necessity of workmen to organize marks an important step in the progress of unionism."²

To sum up, the history of the closed-shop movement in America falls roughly into three periods. In the first, from

employers were very successful in defeating such strikes. Unfortunately there are no statistics at hand later than 1905.

Year.	Succeeded.	Failed.
1901	57.26	42.12
1902	55.14	38.98
1903	66.48	29.82
1904	36.60	62.54
1905	43.83	54.72

¹ For a capitalistic estimate of the results of the open-shop fight see Marcossou, p. 6965.

² White, p. 29.

1794 to 1870, the closed shop was maintained almost entirely by local unions which did not cooperate with each other in excluding non-unionists. In the second period, from 1870 to 1901, the national unions, or a very large part of them, made the maintenance of the closed shop a national rule, and required their local organizations to enforce it as effectively as possible. In the same period there gradually developed a large amount of cooperation among local unions of different trades and among local unions of the same national union in excluding non-unionists. The third period, from 1901 to the present time, has been characterized by the efforts of the unions to maintain the closed shop in the face of the organized attacks made by employers' associations.

The opposition on the part of the employers to the closed shop also falls into three periods. In the first, from 1794 to 1836, the employers sought to prevent the exclusion of non-unionists from employment almost entirely by resort to legal processes. Members of different societies were tried for illegal conspiracies because they refused to work with non-members. In the second period, 1836 to 1901, the opposition to the closed shop was carried on by local employers' associations. Finally, from 1901 to the present time, national associations of employers have carried on the struggle for the open shop.

CHAPTER III.

THE SIMPLE CLOSED SHOP.

In its simplest form the principle of the closed shop is embodied in the rule that members of a trade union shall not work in an establishment where non-unionists are employed, unless such non-unionists fall within classes exempted by the rules of the union from the requirement of membership. When the exclusion of non-members is carried no further than this, we may say that a union enforces the "simple closed shop."

In order to understand what persons are required to become members of the union we must understand what is meant by the jurisdiction of a union. Every union claims exclusive control over a certain trade or over a group of trades. With other work in the same establishment it has no necessary concern.¹ Any rules that it may adopt, therefore, have force only in the trades over which it claims authority. Not only does a union fix limits to its trade jurisdiction, but it also determines what class or classes of persons at work within this jurisdiction shall be exempted from becoming members. It decides, for example, whether journeymen mechanics only shall be required to join, or whether other persons, such as laborers, helpers, foremen, and employers, shall also be included. It is within these limits that the union enforces the closed shop. It does not discriminate against those classes of non-unionists in the establishment who are not within its jurisdiction or against those exempted from membership.

It is the purpose of the present chapter to discuss the relation of various classes of workmen to the closed shop.

¹ On October 3, 1862, the Baltimore Cigar Makers decided that "scabs" could work at the manufacture of smoking tobacco in the same shop with union cigar makers, since the latter "had nothing to do with tobacco manufacturing."

The workmen with which we have to deal may be conveniently divided into the following groups: "scabs" and expelled union members, ordinary non-unionists, members of rival unions, suspended and fined union members, retired and resigned union members, travelling union members, union members working at two trades, workmen in "semi-closed" shops, helpers, foremen and superintendents, employers, apprentices, workmen inadmissible to union membership.

"Scabs" and expelled union members.—In tracing the development of the closed-shop rule it has already been pointed out that "unfair" workmen, such as "scabs," "rats," and expelled union members, were the first workmen to be barred from working with unionists in good standing.¹ It will be sufficient here merely to say that it is only under exceptional circumstances that any union will allow its members to work with a "scab" or with a member who has been expelled for a criminal offense, such as embezzlement of union funds.² More leniency is sometimes shown to members expelled for non-payment of dues. Against the "scab," however, relentless warfare is maintained, and any unionist who ventures to work with him without the consent of his organization is either heavily fined or expelled from membership.

Ordinary non-unionists.—By far the most important class of workmen against whom American trade unionists discriminate consists of non-union men who have not "scabbed." Many of these men are non-members because they have never had an opportunity to join a union or because they have always worked for non-union employers. From a union standpoint they are differentiated from "scabs" in that they have never worked "unfairly" or in wilful opposition to union rules.

Whether non-union men of this type are allowed to work temporarily with union members in closed shops is usually

¹ See above, p. 21.

² The Tin Plate Workers and a few other unions allow an expelled member to work pending appeal of his case to the national union.

a matter for the local unions to decide. Many local unions, when strong enough to enforce their demands, will not allow any one to be employed in a union shop unless he has a paid-up union card in his possession. Should a non-unionist apply for employment in a shop where such a union has control, he is informed that he cannot work unless he becomes a member of the union. A few local unions have been even more extreme in their demands. In at least two cases within recent years local unions of the Machinists have insisted that no machinist might obtain employment in union shops until he had been a member of the union for at least three months.¹ In an agreement in 1900 between the local union of the Painters at Memphis, Tennessee, and the employers it was stipulated that no painter should be hired by the latter unless he held a union card paid up three months in advance.² The national unions for the most part look upon such rules and agreements with disfavor.

But while it is not usual to require that the employer in a closed shop shall not employ non-unionists, it is frequently provided that he shall give unionists preference over non-members in employment. In many agreements it is merely stated that preference shall be given to competent union men when workmen are to be hired, and nothing is said as to how the employer is to ascertain whether union members are available.³ Certain unions maintain what is known as a "waiting list," on which are registered the names of unemployed members in the order of their application. If an employer needs a workman, the business agent sends him the member whose name heads the list. If the list is "optional," the employer may hire this applicant or not, as he sees fit. Should he refuse to hire him, the union will then send him the member next on the list, and so on. If the

¹ Machinists' Monthly Journal, December, 1906, p. 1104; December, 1908, p. 1068.

² Official Journal of the Brotherhood of Painters, Decorators and Paperhangers of America, April, 1900, p. 22.

³ Window Glass Workers, Local Assembly 300, Knights of Labor, Scale of Wages and Rules for Working, September 15, 1899-June 15, 1900, Sec. 40.

list is "compulsory," the employer is required to hire the first union member sent him. The "union" waiting list is found chiefly in the unions of the building trades. Other unions, such as the International Typographical Union and the United Mine Workers, have developed the "shop" waiting list. The two kinds of lists differ considerably in the amount of preference conferred. When a union maintains a "shop list," it requires only that "the employee first laid off for lack of work" shall be the first to be taken on when the shop needs more workmen. When a "compulsory union list" is in force, on the other hand, an employer who wants men is required to hire the union members longest out of employment whether they have ever been in his employ or not, and he is permitted to hire non-members only when all the members of a local union have obtained employment. Comparatively few "union" lists are maintained. They are generally found in connection with "exclusive" agreements, that is, agreements under which a union engages not to allow its members to work for any employer who is not a member of the employers' association with which the agreement is made.¹

Even more restrictive than the ordinary "compulsory" waiting list is the requirement maintained by the Brewery Workmen. For a number of years this union has had a rule that when one local union is unable to furnish as many men as the employers desire, it must exhaust the supply of unemployed members in adjacent local unions before allowing non-members to be hired.² Usually preferential employment is not provided for beyond the membership of a single local union or district council, but in this case it extends to a considerable part of the members of the national union.

Even where there are no waiting lists, national rules, or agreements for the preferential employment of union men it is customary for many unions to insist that the proprietors

¹ Eleventh Special Report of the Commissioner of Labor, 1904, pp. 20-21.

² Constitution, 1901, Art. IX, Sec. 18.

of union shops shall not hire non-union men as long as competent unionists are unemployed. When it is impossible for the union to supply workmen, there is no objection to the employment of non-unionists who are eligible for membership. In many unions employers are expected to notify the unions if they need workmen, and if a sufficient number of unionists cannot be furnished within a reasonable time, the employer is free to hire non-members.¹ Some unions, however, such as the Barbers, the Meat Cutters and Butcher Workmen, the United Mine Workers, the Plumbers,² and the Hotel and Restaurant Employees, do not require an employer to observe this rule when an emergency arises, because even a short delay in securing a sufficient labor force would be likely to cause irreparable loss.

When the employer cannot obtain competent union men, he is allowed to hire such non-unionists as he needs as long as they are not "scabs" and "perform the work in a satisfactory manner." Only in a few unions does restriction upon the employment of non-unionists go farther than this.³ While in most closed shops the employer is required to hire union men in preference to non-unionists, there are many unions which do not enforce any such restriction. If the employer prefers to hire non-union men instead of idle unionists, he is allowed to do so. In the older and stronger unions this is the general practise.

In all closed shops non-unionists who have been employed must, within a certain more or less definite time, join the union.⁴ This period varies greatly in different unions,

¹In many cases the unions are given twelve hours' notice; in others, twenty-four. Longer notices are unnecessary, since the union officials ordinarily know from day to day what members are out of employment.

²In the Plumbers exemption from notice to the union applies principally to jobbing work.

³The Flint Glass Workers provide that "when competent union gatherers cannot be obtained their places may be filled from the boy help in the respective factories where the shortage occurs." See Price List of Machine Made Jars and Bottles, for the Blast of 1908 and 1909, Rules and Regulations governing the Machine and Press Department, Sec. 21.

⁴During the strike of the Cloak and Suit Makers' Union in New York City during the summer of 1910 Mr. Louis D. Brandeis, who

in some cases being as long as three months.¹ In the unions of the building trades, such as the Bricklayers and Masons, the United Brotherhood of Carpenters, the Amalgamated Carpenters, the Painters, and the Sheet Metal Workers, as well as in the Molders, the Printers, and the Printing Pressmen, wherever the local unions are strong, from twenty-four to forty-eight hours is the usual time allowed a non-member in which to apply for membership. If this application is favorably acted upon, he is initiated at the next regular meeting of the union.² Other unions, such as the United Mine Workers, the United Garment Workers, the Machinists, the Tin Plate Workers, the Cigar Makers, and the Meat Cutters and Butcher Workmen, allow non-unionists from ten days to two weeks in which to affiliate themselves. In a few unions a period as long as one month is given them.³ In practically all unions the non-union man is allowed to work until he has had at least one payment of

acted as mediator in attempting to secure the settlement of the dispute, proposed that the union sign with the employers an agreement for the "preferential closed shop," that is, that the employers recognize the union, "declare in appropriate terms their sympathy with the union, their desire to aid and strengthen the union," and agree "that as between union men and non-union men of equal ability to do the job, they will employ union men" (The Outlook, August 20, p. 855). This agreement, though first opposed as being the "open shop with honey," was finally accepted by the union. The non-unionists, it is to be noted, are not required to become members of the union. In the classification adopted in this monograph such a shop is an "open shop." See also Wyatt, "The New York Cloak-Makers' Strike," in McClure's Magazine, April, 1911, p. 711.

¹ In some cases a non-union man must secure a "working permit" before he can work in a closed shop. This does not give him union membership, but apprizes the union officials that a non-unionist is at work.

² Bricklayers and Masons, Proceedings of the Twenty-first Annual Convention, 1887, p. 22.

³ The New York Cordwainers in 1809 provided that "strange journeymen" who did not come forward and join the society "in the space of one month" should be sent a notification by the secretary of the society. If at the end of a second month they still did not join, a fine of three dollars was assessed upon them. Apprentices were allowed three months' time after becoming "free" in which to join the society. The Philadelphia tailors in 1827 are said to have had a rule that "when a man had worked in a shop ten or twelve days he was forced to join, or each one in the shop would be liable to a fine" (Commons and Gilmore, Vol. III, p. 367; Vol. IV, p. 141).

wages. In the Glove Workers, the Jewelry Workers, and the Longshoremen it is unusual for a non-union man to be asked to join the union until he has had two "pays." The unions realize that it is usually a hardship for a man to pay his initiation fee and dues as soon as he obtains employment.

In certain unions the periods within which non-unionists are allowed to work in closed shops are less definite. In the agreements of the Seamen and some branches of the Longshoremen with the vessel owners' associations of the Great Lakes and with the Great Lakes' Towing Company it is provided that non-unionists may be employed on vessels when union men are not available, but only on condition that they be discharged at the expiration of one round trip.¹ In still other occupations, where a period of probationary employment is necessary, new employees are not required to join the union until they have proved satisfactory to the employer. The Street and Electric Railway Employees, for instance, in their agreements with electric railway companies generally provide that new employees who are being tried out as motormen and conductors shall not be required to join the union for a period of from sixty to ninety days.² Similarly, in the Glove Workers, the Hod Carriers and Building Laborers, the Hotel and Restaurant Employees, and other unions which have no apprenticeship system a new employee is not asked to join the union until he has learned the trade.

Where the waiting list is rigidly enforced, the employment of a non-unionist may be terminated at any time by a unionist's becoming available. In many of the agreements of the Flint Glass Workers, the Blacksmiths, the Machinists, the Plumbers, and the Meat Cutters and Butcher Workmen it is provided that non-unionists may be hired only "until union men can be furnished." Usually a non-union man employed under these conditions is allowed to "work out

¹ Lake Seamen, Agreement with the Lumber Carriers' Association, 1907, Art. III; Longshoremen, Proceedings of the Twelfth Annual Convention, 1903, p. 65.

² Street and Electric Railway Employees, Year Book, 1908, p. 20.

the day," but in a few unions, particularly the Longshoremen, he is given only a half day's employment if a unionist becomes available.¹ In one of the agreements between the Lithographers and the Lithographers' Association (West), an organization of employers, it was provided that if the union could not furnish on fifteen days' notice a sufficient number of men to meet the need of any member of the Association, the latter might hire non-union men. These non-unionists were to be discharged within three months' time after the union had made known its ability to furnish competent mechanics from among its members.² Notices such as this are extremely unusual.

Members of rival unions.—When the trade or territorial jurisdiction claimed by two unions is identical or overlaps, the members of the two unions ordinarily refuse to work with each other. In 1898, for instance, the "Baltimore organization" of painters in its struggle with the "Lafayette organization" declared "all painters not affiliated with the Baltimore headquarters to be non-union men."³ Seceding local unions and the national union have always been especially hostile to one another.⁴ When the trade unions from 1881 on began to demand independence from the Knights of Labor, the latter refused to allow members of the unions to be employed in the shops controlled by them. It was recognized very early that the closed shop might be a powerful weapon in many jurisdictional disputes. Among those in which it has been much used in recent years are the disputes between the Glass Bottle Blowers and the Flint Glass Workers, between the United Brotherhood of Carpenters and the Wood Workers, between the Plumbers and the Steam Fitters, between the Granite Cutters, the Stone Cutters, and the Marble Workers, and between the Bricklayers and Masons and the Plasterers.

¹ Proceedings of the Thirteenth Annual Convention, 1904, p. 105.

² Lithographers, MS. Proceedings of the Ninth Convention, 1906, p. 72.

³ Sixteenth Annual Report of the Commissioner of Labor, 1901, p. 899. See also *Plant v. Wood*, 176 Mass., 492.

⁴ For an early case, see *Stone Cutters' Circular*, August, 1858, p. 3.

When the jurisdictions claimed by two unions are identical, members of the one organization refuse to work with those of the other under all circumstances. But if their jurisdictions merely overlap, as in the dispute between the Glass Bottle Blowers and the Flint Glass Workers, the members of one of the unions do not ordinarily refuse to work with members of the other except on the particular class of employment in dispute. Similarly, the Woodworkers would not complain if a member of the Carpenters was hired to make repairs on a shop in which the Woodworkers were employed, but they would strike if a member of the Carpenters was hired to do woodworking.

In commenting upon the constantly recurring jurisdictional disputes between trade unions, the editor of the Plumbers, Gas Fitters and Steam Fitters' Journal in 1896 lamented that less courtesy had ordinarily been shown to the holder of an "opposition card" and that life had been made "more bitter" for him than in the case of "one who has always remained outside the pale of united labor and who has always been inimicable to its interests."¹ The unions have felt that when a non-unionist secures employment in a shop controlled by them, it will not ordinarily be difficult to induce him to join their ranks. But the union in control is extremely reluctant to allow a member of a rival or hostile union to be employed in a shop. There is always the danger that he may win over the shop to his own union.

Some unions have settled their jurisdictional difficulties by issuing an interchangeable working card, as is done by the Bricklayers and Masons and the Plasterers. In other cases they have agreed to recognize each others' cards for a certain period, as has been done by the United Garment Workers and the Shirt, Waist and Laundry Workers and by the United Brotherhood of Carpenters and the Amalgamated Carpenters. These methods seem to be growing in favor.

Suspended and fined union members.—Suspension from

¹ April, 1896, p. 4.

union membership is ordinarily accompanied by the loss for a certain period of the rights and privileges attached to membership. Except that suspended members need not pay an initiation fee in order to regain "good standing" in a union, they are in effect non-members. Most closed-shop unions exclude suspended members from employment in union shops. In 1860 the Cigar Makers' Society of the State of Maryland forbade the employment of suspended members "in any shop, on any consideration, whatsoever." So strictly was this rule enforced that a suspended member was not allowed to go to work on the following morning.¹ At the present time the Cigar Makers and other unions which make the label an important device are particularly careful to see that suspended members are not employed in union shops. The unions in the structural building trades, especially the Bricklayers and Masons, exclude suspended members from employment almost absolutely. While there are rules against working with suspended members in practically all the closed-shop unions, these rules are not enforced so rigidly in other unions as in the "label trades" and the "building trades" unions.

Some unions, as for example the Granite Cutters, allow suspended members to remain at work in a closed shop provided they agree to pay up back dues and assessments.² Usually they are allowed to pay the union in installments. This accommodation is extended chiefly to those members who are in financial difficulties. The Window Glass Workers, Local Assembly 300, Knights of Labor, also allowed suspended members to be employed as "spare" workers when members of the Assembly in good standing were not available.³ Special consent of the executive board, however, had to be secured in each case. Some other organizations, too weak to be exacting in the enforcement of their

¹ MS. Minutes, May 4, 1860.

² Most suspensions arise from union members' neglecting or refusing to pay dues, assessments, or fines.

³ Scale of Wages and Rules for Working for Blast of 1904, Sec. 58.

rules, allow suspended members ample time in which to settle their debts.

In case members have been fined for "scabbing," all closed-shop unions, as far as possible, exclude them from employment until the fines are paid. Many fines are imposed, of course, for minor offenses. Some unions, among which the Bricklayers and Masons take chief place, discriminate against fined members in practically the same manner as they do against suspended members, no matter for what reason the fine has been imposed. In other organizations, such as the Slate and Tile Roofers¹ and the Brewery Workmen, fined members are allowed to work pending an appeal to the national executive board.

Workmen who have retired from the union.—Most unions provide that their members may withdraw or retire from active membership under certain conditions. Members who take advantage of this rule are not required to pay dues, and they are deprived of most of the privileges of active membership. Retired members are usually required to deposit their "retiring" or "withdrawal" cards with the proper union officers and to take out working cards before "seeking work under the jurisdiction of any subordinate union."² The president of the American Federation of Musicians, for example, has held that for a member of that union to perform with or for³ a "resigned member" is the same as performing with a non-member, "and in principle is a violation of the interest of all locals."⁴

Travelling union members.—There are also restrictions in some unions upon the employment of travelling members who carry so-called "travelling" or "clearance" cards. In the early days of American trade unionism, as has been noted, the different trade societies, such as the New York

¹ Report of Proceedings of the First Annual Convention, 1903, p. 6.

² Printing Pressmen, Constitution, 1908, Art. XI, Sec. 3.

³ All orchestra and band leaders or contractors, except grand-opera leaders, are required by the Musicians to become members of the union.

⁴ The International Musician, February, 1904, p. 6.

Typographical Society and the Journeymen Cordwainers of Pittsburgh, did not refuse to work with "strangers" unless they were "scabs." In 1860 the Cigar Makers' Society of Maryland provided that strangers should not be allowed to work in union shops unless they could prove their membership in another cigar makers' society.¹ There was discrimination against travelling non-unionists and "scabs," but none against members of other local societies in the same trade. This was undoubtedly the general practice of all labor organizations until about 1870.

As soon as the scattered local organizations had formed national unions a further step was taken. Increased facilities for transportation had by this time made the travelling journeyman a serious problem, especially in certain unions, as the Iron Molders, the Granite Cutters, the Bricklayers and Masons, and the Printers, where "bumming" and "tramping" had always been prevalent. Many travelling members, especially in the building trades, would work for a few days in one locality, and then move on without becoming members of the local union. The latter naturally complained, since it was thus deprived of its dues. The practice was finally broken up in the building trades by requiring that travelling members should not be allowed to go to work in union shops until they had exchanged their travelling cards for local working cards. Accordingly in unions which have adopted this rule "a man holding a travelling card from one local and working under the jurisdiction of another, has no more unionistic rights or privileges than a non-union man," and until he deposits his card all local unions are instructed to "treat him accordingly."²

In a few unions also the local unions have established a form of local protection by securing the insertion in agreements with employers that none but members of the local unions shall be given employment.³ In other agreements practically the same end is reached by a provision that pref-

¹ MS. Minutes, October 5, 1860.

² Slate and Tile Roofers, Proceedings of the Second Convention, 1904, p. 10, President's Report.

³ Machinists' Monthly Journal, July, 1902, p. 405.

erence in employment shall be given to members of the local union.¹ Only a few national unions, such as the Musicians and the Longshoremen, approve such provisions. The Musicians allow members of one local union to refuse to perform with members of another who are brought into their jurisdiction to fill a season's engagement. If the engagement is a temporary one, discrimination is not permitted. The Longshoremen forbid, under penalty of expulsion, the members of one local union to accept employment under the jurisdiction of another without first obtaining its consent.²

A number of important unions, including the Glass Bottle Blowers, the Window Glass Workers, the Flint Glass Workers, the Machinists, the Granite Cutters, the Hatters, the United Mine Workers, the Pocket Knife Grinders, and the Wood Carvers, allow a travelling member to work on his clearance or travelling card until the next meeting of the local union.³ He must then deposit the travelling card and secure a working card. At one time the United Mine Workers provided that a clearance card "from any legalized or recognized labor union, anywhere, known to be friendly to the United Mine Workers of America, shall be accepted."⁴ In all of these unions there is little risk that travelling members will be able to change their place of employment so quickly as to evade control by local unions in whose jurisdiction they obtain work. Members who travel without cards are generally required to agree "to the initiation fee being retained until a transfer card has been produced, before being permitted to work."⁵ Otherwise unions would be subject to loss through false representation.⁶

¹ Meat Cutters and Butcher Workmen, *Official Journal*, April, 1903, p. 24.

² Constitution, 1908, Rules for Locals, Sec. 3.

³ The Hatters require the deposit of the travelling card within twenty-four hours.

⁴ Constitution, 1899, Art. VI, Sec. 2.

⁵ United Mine Workers, Constitution of District No. 12, 1910, Art. VIII, Sec. 4.

⁶ Among the Musicians and the Theatrical Stage Employees a large number of union men are constantly travelling with theatre

Union members working at two trades.—The American Federation of Musicians in several respects has gone further in its closed-shop policy than any other American trade union. One rule peculiar to this union requires that members who work at some other trade in addition to performing in a band or orchestra must join the union of that trade, provided it is an organized one and affiliated with the American Federation of Labor. Moreover, such members must work only in closed shops even though the union of the trade permits its members to work in open shops.¹ For violation of this rule a member of the Musicians is liable to be fined or otherwise penalized exactly as if he had performed in a band with non-union musicians. The primary reason for the adoption of this rule seems to have been a desire to gain favor for the Musicians among other unions. If the members of another union form a band, the Musicians regard it as "non-union," and refuse to allow their members to perform with it even on Labor Day.

Workmen in "semi-closed" shops.—In marked contrast to the policy of the Musicians is that of certain unions which allow their members to work in what may be designated as "semi-closed" shops. Such shops are found in a few unions which have jurisdiction over two or more allied trades, such for instance as the Bricklayers and Masons, the Painters, Decorators and Paperhangers, the Flint Glass Workers, the United Garment Workers, the Typographical Union, and the Longshoremen. In each of these organizations local unions are formed in each "branch" or trade whenever possible. It often happens that when the local union in one branch is stronger than that in another, it enforces the closed shop for itself, but refuses to strike against the employment of non-union men on work over which the other branch has jurisdiction.

companies. These members are required wherever they go to perform or work only with unionists. An exception to this rule is made when no local union exists in the locality. Usually such members hold membership cards in certain local unions instead of travelling cards.

¹ The International Musician, June, 1906, p. 3. Decisions of the Executive Board, No. 56.

Curiously enough, it has been in the Bricklayers and Masons' International Union, where the exclusion of non-union men from employment has been carried out with unusual strictness, that the most important cases of this character have occurred. The bricklayers have always outnumbered the masons in the national union, and their branch is in most localities the better organized. The bricklayers, moreover, have local unions in many localities where the masons are entirely unorganized. As a consequence, local unions of bricklayers have frequently enforced the exclusive employment of their own members on the brick work of buildings, but have raised no objection to the employment of non-unionists or even "scabs" to do the masonry work. Either the bricklayers were indifferent, or they thought it impracticable to compel employers to organize masons' unions. The matter has frequently been complicated by the fact that different employers had contracted for the masonry and the brick work.

For a number of years the masons protested vigorously against the failure of the bricklayers to discriminate in favor of union masons. Finally, in 1890, the breach between the two branches had grown so wide that the Pittsburgh masons' union suggested that the masons secede from the International Union and form a separate organization.¹ The situation has gradually been improved by the adoption of "working codes" in many localities. These "codes" are agreements between the local branches of bricklayers and of masons. They provide that union men exclusively, both bricklayers and masons, must be employed on a building if men of either branch are to work on it. Some of the "codes" require that a contractor pay a fine for employing either non-union masons or bricklayers.² Other "codes" provide that members of the International Union shall not be allowed to work for an employer unless he contracts for both the

¹ Report of the President and Secretary for the Term ending December 1, 1890, Report of Secretary, p. 39.

² Forty-first Annual Report of President and Secretary, for the Term ending December 1, 1906, pp. 136-137.

brick work and the masonry of a building.¹ The national officers have vigorously urged the adoption of such working arrangements.

The Flint Glass Workers, a union composed of many different branches, have adopted rules intended to prevent the existence of the "semi-closed" shop. Thus provision has been made that union glass workers shall refuse to make "blanks" for non-union glass cutters,² that "no mould maker shall make or repair moulds, to be worked by non-union glass workers,"³ that "no union lamp worker shall work tubing made by non-union tube blowers,"⁴ and that "no glass worker shall be allowed to make bottles or stoppers for non-union stopperers to work."⁵ Likewise the Musicians provide that union prompters shall not officiate at entertainments where non-union musicians are employed unless unionists are unavailable.⁶ Many other unions, such as the Potters and the Brewery Workmen, have adopted similar rules. No union will allow its label to be attached to the product of a shop in which non-union men are employed on any work over which the union claims jurisdiction.⁷ The "semi-closed" shop is still common, however, among the Meat Cutters and Butcher Workmen and the Longshoremen.

Helpers.—Several closed-shop unions, as for example the Plumbers, the Steam Fitters, the Printing Pressmen, and the Ceramic, Mosaic and Encaustic Tile Layers, are composed of journeymen and helpers. As far as possible the latter are organized into separate local unions. The helpers are thus permitted to some extent to regulate their own affairs, and their association is generally spoken of as the "junior organization." It is not independent of the "senior" or journeymen's branch of the union, but on the

¹ Thirty-sixth Annual Report of President and Secretary, December 1, 1901, p. 196.

² Constitution, 1895, Art. XXVII, Sec. 1.

³ Constitution, 1886, Art. XXV, Sec. 1.

⁴ Constitution, 1895, Art. XXXII, Sec. 5.

⁵ *Ibid.*, Constitution of Local Unions, Art. XX.

⁶ Constitution, 1910, Standing Resolutions, No. 18.

⁷ Spedden, pp. 51-55.

contrary is usually compelled to adjust its working rules in accordance with the wishes of the journeymen. In the unions mentioned, union helpers are not allowed to work with non-union journeymen, and in turn journeymen members of these unions must see that their helpers carry union cards. The Printing Pressmen provide, for instance, that "all apprentices in web pressrooms must come from the assistant's unions,"¹ while the Tile Layers have a rule that "all tile layers must work with union helpers."² The United Association of Journeymen Plumbers, Gas Fitters, Steam Fitters and Steam Fitters' Helpers requires that union steam fitters employed on out-of-town work "shall work with no helpers except those who belong to the United Association," provided there is a helpers' union in the city from which the journeymen come.³ Since the adoption of this rule, however, agreements have been signed with employers which provide that non-union helpers may be employed until a local helpers' union is organized.⁴ The International Association of Steam, Hot Water and Power Pipe Fitters has followed a similar policy.⁵

Foremen and superintendents.—Foremen, "bosses" and superintendents in many unions are admissible to membership. Whenever such membership is compulsory, they are required to observe the same rules as journeymen regarding the persons with whom they work. In fact, an additional responsibility for the maintenance of the closed shop is placed upon them, since they have the power to hire and discharge workmen. In such unions if a non-union foreman or superintendent refuses to join a union when asked to do so, the union will endeavor to effect his discharge. Many strikes "for the recognition of union rules" have originated

¹ Constitution, 1908, By-Laws, Art. III, Sec. 2.

² Constitution, 1905, Art. XV, Sec. 4.

³ Constitution, 1902, Art. XXV, Sec. 18.

⁴ Plumbers, Gas and Steam Fitters' Official Journal, May, 1905, p. 13.

⁵ In their Constitution for 1886 (Art. IV, Sec. 5) the Window Glass Workers, Local Assembly 300, Knights of Labor, provided that no glass blower should "take an apprentice to blow who is not a gatherer and a member of the Assembly."

in this manner. In a few unions, on the other hand, such as the Iron Molders and the Paving Cutters, foremen in union shops cannot continue as active members of the union, but must hold retiring cards.

In some national unions, as for example the Shirt, Waist and Laundry Workers, the Table Knife Grinders, and in many local unions in the building trades, membership is optional with foremen. In other unions, like the Glove Workers, foremen are excluded from membership entirely. Yet even in such unions certain requirements are often imposed on the foremen of union shops. If a foreman handles the tools of the trade, the union requires that he must be a practical mechanic. Strikes have often been called against shops because the foremen had never fully learned the trade. In the building trades, union men often refuse to work with foremen of this kind, not only on closed-shop jobs but on open-shop jobs also.¹ As long as the foreman is a competent mechanic or as long as he refrains from working at the trade, those unions in which foremen are inadmissible to membership do not object to the employer's choice of a foreman. In large shops, of course, foremen seldom work at the trade.

Employers.—In a number of unions, employers who work at the trade are required to become members of the union. They must not employ non-unionists, and if they do they are fined or are expelled from union membership and "scabbed." The Bricklayers and Masons fine a contractor who is a union member as much as one hundred dollars for hiring "scabs." Likewise in all unions in which the employer is required to become a member, journeymen members are penalized for working with an employer who is not a member of the union. Still severer penalties are

¹ Most unions in the building trades require foremen to become members of the union because they work usually with the journeymen. Occasionally, however, they have been forced to sign agreements in which it was provided that the foreman "shall be the agent of the employer," and "shall not be subject to union rules." See Bricklayers and Masons, Forty-second Annual Report of President and Secretary, for the Term ending December 1, 1907, p. 178.

imposed when the employer has been expelled from the union.

In many unions an employer who does not work at the trade is allowed to retain active membership in a union but is not required to do so. He can keep "in good standing" only as long as he "pays the scale of wages, hires none but union men and complies with the constitution and by-laws" of the organization with which he is affiliated.¹ In many unions he is forbidden to join an employers' association. Employers who hold retiring or withdrawal cards are likely to have their membership taken away if they attempt to run open shops. The Barbers² and the Bakery and Confectionery Workers afford many examples of the enforcement of this rule.

The Musicians require that all persons who take contracts for performances in which union musicians are to participate must be union members. In addition they insist that all employers who play in union bands and orchestras must employ only union labor, if the trade to which their workmen belong is organized in a union affiliated with the American Federation of Labor. In 1903 Secretary Miller reported that he had frequently ordered "barber bosses, cigar manufacturers (on a small scale), and painter bosses to be stricken from the roll" because of their refusal to employ union men.³ In unions other than the Musicians there is little occasion to enforce such a rule, since it rarely happens that journeymen in one trade carry on business as employers in another.

In those unions in which employers are inadmissible to union membership they are allowed to work in their own shops. Objections have occasionally been raised against allowing employers who have never learned the trade to do a journeyman's work, but it is the general feeling among the unions that even if an employer has not learned the trade he should be allowed to work in his own shop or factory.

¹ Electrical Workers, Constitution, 1901, Art. VI, Sec. 4.

² The Barbers' Journal, July, 1900, p. 147; December, 1901, p. 324; January, 1906, p. 283.

³ Proceedings of the Eighth Annual Convention, 1903, p. 37.

When the shop is conducted by a firm or a joint-stock company, restrictions are often placed upon work's being done by members of the firm or by stockholders in the company who are not members of the union. In the building trades the unions usually limit the number of firm members or stockholders who may be permitted to do journeymen's work without becoming members of the union.¹ In other agreements members of firms and stockholders are restricted to certain kinds of work. If it were not for regulations of this kind, journeymen in many trades, such for example as plumbing, could organize firms to take contracts at prices that would amount virtually to cutting the union rate of wages. To deprive such firms of union labor unless they agree to limit the number of working employers restricts them to contracts of minor importance.²

Apprentices.—Apprentices have a peculiar status in closed shops. They are rarely admissible to full union membership, but they are prospective union members and, in a fashion, wards of the unions. Almost all closed-shop unions require that apprentices must be "registered on the books of the union." The Hatters require that all work in union factories must be done by union members "exclusively, or by registered apprentices."³ No apprentice is registered until it has been ascertained whether his employer is entitled, under union rules, to have an apprentice. If trouble occurs in the enforcement of this rule, it is usually provided that the shop where the difficulty occurs shall be declared "unfair," and that "no union man shall accept employment in such shop."⁴ In the unions of the building trades an apprentice is ordinarily not permitted to go to work "unless he is on record."⁵ In some cases it has been agreed with the employer that the apprentice shall "not be subject to

¹ The Electrical Worker, July, 1898, p. 7.

² Stockholders in union cooperative shops and factories are always required to keep "in good standing."

³ Constitution, 1900, Art. II, Sec. 2.

⁴ Horseshoers, Constitution, 1908, By-Laws, Art. XXIII, Sec. 8.

⁵ Bricklayers and Masons, Thirty-seventh Annual Report of President and Secretary, December 1, 1902, Report of President, p. 2.

union rules and shall at all times be under the control of the employer."¹ Apprentices who have been registered in the shop of one employer are not allowed, except in unusual cases, to leave his employ until the expiration of their term of apprenticeship. Union members will not ordinarily work with "runaway" apprentices.

In many unions an apprentice is required to carry an "apprentice card," for which a small fee is sometimes charged. This card must be renewed at regular intervals, exactly like a journeyman's card.² Thus, the Painters provide that wherever the "working card system," that is, the closed shop, is enforced, apprentices must carry working cards.³ Since 1896 apprentices in "label shops" controlled by the Cigar Makers have been "honorary" members of the union.

Apprentices who go to work in "scab" or struck shops ordinarily become "unfair," and are "liable to such penalty or fine as the local society may inflict."⁴ If they are fined, they cannot work with union journeymen until their fine has been paid. If their names are taken off the register of the union, they are permanently excluded from work in closed shops. Whether apprentices are required to strike with the journeymen or not depends partly on how far their remaining at work will "materially affect the position of either party to the controversy."⁵ If the interruption of apprenticeship will seriously handicap the apprentice in learning the trade, he is not ordinarily required to strike with the journeymen.⁶

¹ Joint Arbitration Agreement between the Chicago Masons and Builders' Association and Union No. 21 of the Bricklayers and Masons' International Union, April 1, 1903, to May 1, 1905, p. 30.

² Motley, "Apprenticeship in American Trade Unions," in Johns Hopkins University Studies in Historical and Political Science, Ser. XXV, Nos. 11-12, pp. 79-80.

³ Constitution, 1902, Art. XXXV, Sec. 4.

⁴ Constitution and By-Laws of the Hat Coners' and Slippers' Society of Danbury, Conn., and Danbury District, Art. X, Sec. 3. Reprinted in the Sixth Annual Report of the Bureau of Labor Statistics of the State of Connecticut, 1890, p. 314.

⁵ Motley, p. 88.

⁶ Ibid.

The Printers, the Printing Pressmen, and the Steel and Copper Plate Printers allow local unions to admit apprentices to "conditional membership" in the last year of their apprenticeship. Should an applicant for such membership be refused admission on the ground of incompetency, however, the national unions have declared that it is not either "necessary or proper that union men should refuse to continue at work" where the rejected candidate is employed.¹ Another year of his term remains in which it is possible that the apprentice may become proficient.

Workmen inadmissible to union membership.—From almost every union certain classes of persons are excluded on account of sex, race, or incompetency. These persons may be willing to join the union, but they are ineligible to do so, and they are not allowed to work in closed shops. Opposition to them is as strong as, if not stronger than, to "scabs;" it is always stronger than to ordinary non-union men. In the building trades, union members have repeatedly refused to work with unskilled laborers or "handy men" even on open-shop jobs. The Bricklayers and Masons at one time had several local unions in the South which refused to work with competent negroes, but made no objection to the steady employment of non-union whites eligible for membership. If non-unionists who are admissible to membership are allowed to work, there is a possibility that they may join the union, but every person inadmissible to union membership who is allowed to do work claimed by the union for its members weakens the control of the union over the trade.²

A word may be said finally concerning the relation of territorial jurisdiction to the enforcement of the closed shop. In many American trade unions the jurisdiction of one local

¹ Printing Pressmen, Constitution, 1908, By-Laws, Art. III, Sec. 4; Steel and Copper Plate Printers, Constitution, 1900, General Laws, Sec. 22.

² For humanitarian reasons, old men ineligible to union membership are sometimes allowed to work at their trade in union shops. The Musicians permit union members to perform with amateur musicians who are ineligible to membership, provided the latter do not compete with union bands and orchestras for engagements.

union extends in any direction half way to the nearest sister local, and thus there is no locality where some local union does not have authority. In such unions, union men, wherever they go, are required to observe the closed-shop rule. In other unions local organizations are restricted in their jurisdiction to the limits of a city or to a certain district, so that some localities are not under the jurisdiction of any local union. In such places it is not obligatory upon union members to refuse to work with non-unionists.

CHAPTER IV.

THE EXTENDED CLOSED SHOP.

The application of the closed-shop principle is not limited to a single shop, but in many unions has been extended to cover two or more shops. These separate shops taken together are considered by the unions as one shop, and the principle of exclusion is enforced in them as if they were a single shop.

The simplest form of the extended closed shop is found in union regulations concerning subcontracting. In the building trades a general contractor often sublets part of the work on a building to another contractor. Where the job is a large one, several of these subcontractors may employ men at work which falls within the jurisdiction of a single union. Thus one of them may have the subcontract for laying floors, another for erecting doors, and another for setting window-frames. In each of these cases the subcontractor would employ carpenters. At the same time the general contractor may have reserved some carpentry work to be done under his immediate direction.

When a general contractor sublets work, he usually feels that he is not responsible to the union for the method in which the subcontractor conducts the work. Since he himself does not hire the workmen, he regards each subcontract as a separate job or shop. In his opinion if one of his subcontractors employs non-union men, it should not be a cause of complaint by the union against other subcontractors or against himself. Each subcontractor who employs union men maintains likewise that since he exercises no control over the general contractor or over other subcontractors, strikes should not be called against him if they employ non-unionists. Many unions, however, insist that all the subcontracts shall be regarded together as a single

job or shop, and demand that all workmen in their trade employed on the contract shall be unionists.

In the building trades the Bricklayers and Masons have been particularly active in this policy. Many of their local "working codes" and agreements have provided that "fair" employers shall not sublet work to non-union contractors.¹ The national executive board has also decided in several cases that it is not permissible for union bricklayers and masons to work with non-members for a "fair" firm which has sublet to non-union employers or for a "fair" employer who has subcontracted from an "unfair" firm.² Union members are thus prohibited from working for one subcontractor if any other on the same building employs non-unionists of the same trade. The United Brotherhood of Carpenters,³ the Granite Cutters,⁴ and the Bridge and Structural Iron Workers⁵ also oppose the employment of their members on a building if any part of it has been subcontracted to or from an "unfair" employer. The Bridge and Structural Iron Workers, however, are forced to allow their members to work for "fair" employers who subcontract from the American Bridge Company and other large "unfair" concerns which are subsidiary to or in close alliance with the United States Steel Corporation. These firms control so much important work throughout the country that unless the union made some concession its members would be deprived of much employment.

The extended closed shop has also been enforced by certain unions in cases where a manufacturer buys from another manufacturer part of the goods he sells. The two establishments, in these cases, have been considered a single concern. This policy is almost entirely confined to unions in which the label is important. None of these unions, as for example the Cigar Makers, the United Garment Work-

¹ The Bricklayer and Mason, July, 1903, p. 4.

² Twenty-sixth Annual Report of the President and Secretary, 1891, p. lxxiv; Thirty-seventh Annual Report, 1902, p. 69.

³ The Carpenter, March, 1908, p. 20.

⁴ The Granite Cutters' Journal, June, 1906, p. 5.

⁵ The Bridgeman's Magazine, April, 1903, p. 4.

ers, and the Upholsterers, allow an employer the use of the label if he buys the output of a non-union factory or shop.

Occasionally a strong union, even though it does not have a label, will object if a union employer subcontracts to non-union shops. A case of this kind occurred in the Glass Bottle Blowers in 1903. At that time the Cumberland Glass Manufacturing Company, a union plant, sublet part of its work to non-union factories. Its action was immediately considered by the executive board of the Blowers. President Hayes declared that the company could not be "too severely censured," and other members of the executive board favored the calling of a strike and the adoption of other "radical measures." A majority of the board, however, thought it best not to force the issue,¹ but soon afterwards the conference committee of the union informed the representatives of the Green Glass Bottle and Vial Manufacturers that the time was coming when union men would not work in a factory which purchased the product of non-unionists.²

The unions have extended the closed shop in another way. Many unions require an employer who hires union men in one shop to hire unionists in other shops in the same trade of which he is the proprietor. Thus an employer's entire business, in so far as it falls within the jurisdiction of a union, is regarded as a "shop." Probably the first union in which a rule of this kind was adopted was the National Trade Association of Hat Finishers of the United States of America. As early as 1863 it declared that it was not "right for a fair journeyman to work for a boss having a fair and a foul shop in the same town or district."³ The Cigar Makers at the first convention of their national union in 1864 required that the practice be discontinued "of any

¹ Glass Bottle Blowers, Proceedings of the Twenty-seventh Annual Session, 1903, pp. 39-40.

² Manufacturers' Report of the Proceedings of the Joint Wage Committee, Representing the Green Glass Bottle and Vial Manufacturers and the Members of the Glass Bottle Blowers' Association, 1903, pp. 12-13.

³ Constitution, 1863, Standing Resolutions, 5th.

union allowing any of its members to work in a shop or manufactory that employs no union men working for them out of the shop or manufactory."¹ By itself the rule is not very clear, but the context reveals that the intent of the rule was to forbid union employers to hire non-unionists to make cigars outside of their shops.

At the present time the Hatters and the Cigar Makers, as well as most of the other label unions, require that if an employer runs two or more shops, all of them must be unionized before the employer is allowed the use of the label.² If the employer in these trades does not desire the use of the label, the unions rarely attempt to enforce the closed shop in all his establishments by a threat to strike in one. The Printing Pressmen, for instance, in 1905 allowed the Brooklyn Eagle to run its newspaper office as an open shop, while the book and job office was a closed shop.³ The same policy is pursued by the Printers and the Stereotypers.

The policy of the building trades unions toward an employer or contractor who conducts two or more shops or jobs at the same time is illustrated by the following typical provision in the constitution of the Plasterers: "No member of any local shall be allowed to work for an employer or builder who is employing non-union men in another city where a sub-association exists."⁴ It is so well understood as not to need statement that no member is to work for an employer who hires non-union men on any job in the same city. Frequent strikes have been called by the Bricklayers and Masons, the United Brotherhood of Carpenters, the Painters, the Plumbers, the Steam Fitters, the Sheet Metal Workers, and the Bridge and Structural Iron Workers to enforce similar rules. Whether the employer be an individual, a firm, or a corporation makes little if any difference in the attitude of the building trades unions. Thus in 1893, when the Painters found that a contracting firm of two

¹ Journeymen Cigar Makers' Union of the United States, MS. Proceedings of the National Convention, 1864, p. 6.

² Spedden, pp. 59-60.

³ The American Pressman, March, 1905, p. 117.

⁴ Constitution, 1906, Art. IX, Sec. 7.

partners ran one of their shops as a union establishment under one partner and another shop as non-union under the second partner, the national executive board declared that it was improper for union men to work under such conditions, and the local union was directed to go on strike until both shops were unionized.¹ Several unions have also struck against corporations, as for instance against the Fuller Construction Company, because they have not put unionists at work on all their jobs.

It is not always easy to secure cooperation among different local unions in the enforcement of the extended closed shop. The local union whose members a firm is hiring is not easily persuaded to strike simply for the benefit of some other local union.² Where the establishments of the employer are within the jurisdiction of a single union, the union is more likely to make an effort to extend the closed shop over all the establishments.

Only two of the unions in the metal trades have ever seriously considered the desirability of refusing to allow an employer to operate one or more of his plants as non-union while the remainder are run as union. One of these organizations is the Molders. In 1895 it was learned by the Molders that a corporation which was running a union foundry in the East had also a non-union foundry in the West,³ but not until 1899 were the national officers instructed by the convention to bring pressure to bear upon the former shop in order to unionize the latter. In the Amalgamated Association of Iron, Steel and Tin Workers the question has been more serious. In 1900 the Republic Iron and Steel Company and the American Steel Hoop Company refused to sign agreements covering their non-union mills. The president suggested at the time that strikes should be called against any corporation which refused to sign the scale for all of its plants.⁴ The following year the Association de-

¹ Painters' Journal, July, 1893, p. 5.

² Amalgamated Sheet Metal Workers' Journal, August, 1907, p. 316.

³ Proceedings of the Twentieth Session, 1895, p. 74.

⁴ Proceedings of the Twenty-fifth Annual Session, 1900, p. 5764.

manded that the companies should "sign the scale for all, or none." The American Steel Hoop Company, the American Sheet Steel Company, and the American Tin Plate Company refused to sign agreements for any of their mills except those already acknowledged to be union. All of these concerns were connected with the United States Steel Corporation. Feeling that its prestige depended upon the inclusion of all the mills in the agreements, the Association in July, 1901, called a strike against all of the above companies. The fight was bitterly contested for two months and the Association was defeated.¹ Since then the Association has not been strong enough to renew its demands.²

The Flint Glass Workers have used similar tactics. When the National Glass Company was formed, the Flints asked that the seven non-union factories which had been taken over by the company should be unionized.³ To this demand the directors of the company acceded. Later on, in 1904, when an attempt was made by the company to open two non-union factories, a strike was promptly called in all of its union plants.⁴

The Musicians have carried the principle of exclusion as expressed in the extended closed shop farther than any other union. Practically ever since the organization of the National League of Musicians in 1886 union bands have not been allowed to participate "in any procession, tournament or public entertainment" in which bands composed of enlisted men of the United States Army or Navy take part, unless the occasion is one in which the official duties of the government band require its participation.⁵ The American Federation of Musicians in 1903 provided for the imposition of a fine of fifty dollars on members who violated this rule

¹ See the *Amalgamated Journal*, July 18, 1901, to September 19, 1901.

² The *Amalgamated Association* struck against the American Sheet and Tin-plate Company in 1909, but in this case the strike was simply to retain the closed shop in mills then unionized.

³ Report of the Industrial Commission, Vol. VII, 1900, p. 167.

⁴ *Coopers' International Journal*, March, 1904, p. 138.

⁵ *National League of Musicians, Proceedings of the Convention*, 1892, pp. 50-51.

and for expulsion if the fine was not paid within sixty days. If a local union failed to enforce the rule, its charter was to be revoked.¹ Since the adoption of these regulations union bands have performed with bands composed of enlisted men only when the latter are escorting an officer, a foreign guest, or a military command of the United States.

The Musicians also forbid union bands and orchestras to perform at a "parade, festival or conclave" with bands and orchestras composed of non-union professional musicians.² An exception to this rule is made in the case of a non-union band which comes from a city where there is no local union of musicians. The rule applies to bands and orchestras of every kind, including militia bands, lodge bands and orchestras, and even bands composed of members of other labor unions. The rule applies to a reunion or conclave in its entirety. Thus, if an army or navy band is to play at a banquet and union bands are to play at a parade, "both parade and banquet being part of the same festivity," the union bands "could not accept such services."³ In some cases, however, where the refusal of union bands to perform with non-union organizations would have disarranged the program of an occasion of national importance, the executive board or the president of the Federation has suspended the rule.⁴ Frequently, too, in the case of local functions local unions allow Federation bands to play with bands composed of non-unionists when a refusal to do so would be likely to provoke public criticism.

In 1908 the Federation provided that all union bands which contracted to furnish music at summer or winter places of amusement should incorporate in their contracts a provision that none but union bands should be employed there during the season. Bands were to observe this rule

¹ Proceedings of the Eighth Annual Convention, 1903, p. 107. As army and navy bands are paid by the Government, they can accept engagements for less than other bands. Hence opposition to them is greater than in the case of an ordinary non-union band.

² The International Musician, May, 1904, p. 1.

³ Ibid.

⁴ Proceedings of the Thirteenth Annual Convention, 1908, p. 43.

whether they took contracts in the jurisdiction of the local union to which their members belonged or in the jurisdiction of some other local union. President Weber of the Musicians has expressed doubt as to the practicability of the regulation, but has indicated his belief that the principle involved is a proper one.¹

On at least one occasion an organization of marine officers, although professing not to be a labor union, has adopted the policy of the extended closed shop. In 1904 members of District No. 2 of the American Association of Masters and Pilots of Steam Vessels refused to serve on any vessel in the fleet of the Pittsburgh Steamship Company until a non-union captain had been discharged and a unionist hired in his place.² The strike affected nearly one hundred vessels on the Great Lakes.

The Longshoremen collect a fine from an employer before they allow their members to load or unload a vessel that has been unloaded or loaded by non-unionists. This rule was adopted by the union in 1893,³ one year after its organization, and is still retained. In case an employer refuses to pay the fine levied against the vessel and continues to employ non-unionists to do loading and unloading, provision is made for doubling the penalty.⁴ The amount of the original fine is based in general upon the difference between union and non-union wages.⁵ This rule has not however been rigidly

¹In a recent decision President Weber has forbidden travelling bands to accept engagements at any Chicago summer resort or at Riverview Park, Baltimore, except in accordance with the terms of the 1908 resolution.

²Statement by the Lake Carriers' Association to the Cleveland Civic Federation, May 31, 1904, p. 8.

³Commons, "Types of American Labor Unions: The Longshoremen of the Great Lakes," in *Quarterly Journal of Economics*, November, 1905, p. 70.

⁴Constitution, 1908, Art. XVI, Sec. 1.

⁵"Whenever any vessel or barge loads or unloads with non-union men, then it shall be the duty of the local where such loading or unloading was done to notify the General Secretary-Treasurer to enforce an extra charge of ten cents per hour for loading lumber and ten cents per thousand for unloading lumber; two cents per ton for unloading iron ore and coal; twenty-five cents per thousand bushels for elevating or trimming grain; two cents per ton for

enforced. Many vessels have been loaded and unloaded by non-union men and no penalty has been imposed upon them because the local unions in the ports where such vessels call are poorly organized. The Longshoremen, like all labor unions, do not attempt to discipline an employer if they realize that they are unable to carry the affair to a successful issue. Since the union was locked out by the Lake Carriers' Association in 1909 no fines have been collected from grain and ore vessels. The Lumber Carriers' Association still signs contracts with lumber-loading unions in ports of the Great Lakes. In these agreements it is provided that a fine, usually five cents per thousand feet of cargo, shall be levied upon all vessels which load with non-union men when unionists are available.¹ As a matter of fact, a majority of the fines imposed have always been on boats in the lumber trade. Outside of one or two instances on the Pacific Coast no attempt has been made by the Longshoremen to fine ocean-going or coasting vessels for employing non-union men to load or unload cargoes.

The union has also insisted that on the Great Lakes cargoes shall be loaded in their entirety by its members. Captains of vessels frequently hired longshoremen to place a cargo of iron ore on board their boat and then had the deck hands "trim" the cargo in the hold. To prevent this practice, the Longshoremen in 1902 provided that when ore vessels left their loading ports untrimmed by union members, they should pay a fine of three and one half cents per ton of cargo before being unloaded by union members.² In 1904 the Longshoremen proposed an agreement with the Lumber Carriers' Association wherein it was provided that an increased rate of ten cents per hour was to be paid union

trimming ore and coal and for boats which do not trim, two cents per ton extra for unloading, provided further that boats loading or unloading lumber shall be punished by enforcing grain, coal or ore rates and those loading ore, coal or grain shall be punished by enforcing lumber rates" (Constitution, 1909, Art. XVI, Sec. 1).

¹ Lumber Carriers' Association of the Great Lakes, Membership List and Agreements, 1910, pp. 48, 51, 53.

² Proceedings of the Eleventh Annual Convention, 1902, p. 151.

loaders to handle lumber which had been piled by non-unionists in yards within the jurisdiction of any local union.¹ This provision the Lumber Carriers would not accept.

The policy of the Longshoremen in fining boats which have been loaded by non-union labor is evidently a modification of the principle of the closed shop. The end in view is the unionizing of all longshore work done for any one vessel. The union does not refuse to unload vessels loaded by non-unionists, since this would be impracticable. By enforcing the payment of fines the Longshoremen aim to make it unprofitable for a vessel to hire non-union men.

Even in many unions in which the extended closed shop is not ordinarily enforced it is frequently invoked as a war measure. If an employer is "scabbed" or becomes "unfair" or has a strike called against him in one shop, it is the policy of many unions to strike all of his shops. Thus the Plasterers provide that no member of the union shall be allowed "to work for any firm or corporation after the Executive Board has decided said firm or corporation unfair."² The general executive board of the Plumbers has power to suspend any local union which allows its members to work for an employer who has been declared "unfair" in another local.³ The Molders forbid their members to work on patterns brought from a struck shop⁴ or to work for an employer who takes a contract from another employer whose shop has been struck.⁵ The Pattern Makers,⁶ the Saw Smiths,⁷ and many other unions refuse to work on jobs that come from shops where strikes are in progress.

The Musicians have a rule that when a theatre is placed upon the "unfair" list of the union, all other theatres under

¹ Proceedings of the Thirteenth Annual Convention, 1904, p. 227.

² Constitution, 1908, Art. IX, Sec. 7.

³ Constitution, 1904, Sec. 222.

⁴ Iron Molders' Journal, July, 1885, p. 14; May, 1891, p. 7.

⁵ Constitution, 1888, Art. XIII, Sec. 7. When the proprietor of a struck shop sends out work to be done by another establishment, the latter is virtually working on a subcontract.

⁶ Laws for Government, 1900, Sec. 40, Clause 4.

⁷ Constitution, 1902, Art. XIV, Sec. 3.

the same management, wherever located, shall be declared "unfair" by the executive board.¹ In practice the executive board is slow in taking such action against the management of an "unfair" theatre. In all unions, when an employer is on the "unfair" list of the national organization, members of all local unions are forbidden to work for him.² An employer who is declared "unfair" by a local union, however, does not thereby necessarily become "unfair" to all locals. In the Granite Cutters, since 1897 the national executive council has had power to decide whether work shall cease in all the yards of an employer pending settlement of a strike in any one yard.³

The unions in the building trades sometimes refuse to complete jobs that have been begun by non-unionists. Thus the executive board of the Bridge and Structural Iron Workers has decided that union members must not rivet material raised by "scabs" or place corrugated sheeting on structures erected by "unfair" firms.⁴ Union bridgemen are not allowed to rivet material that has been put in place by "scabs," but they may make repairs on "unfairly" built structures. In the "working rules" for 1903-1905, agreed to by the Contracting Sewer Builders' Association of Cook County, Illinois, and by Local Union No. 21 of the Bricklayers and Masons, it was provided that union bricklayers were not to build "inverts, man-holes or catch basins" on a sewer which had been constructed by non-union labor.⁵

In at least one case a local union of the Painters forbade its members to paint walls that had formerly been painted

¹ Constitution, 1910, Standing Resolutions, No. 21.

² Thus, see Longshoremen, Report of Executive Council, 1903, p. 16. In 1904 the United Mine Workers defeated a resolution which provided that wage scales should not be signed with mine operators who were "unfair" in one State or district (Proceedings of the Fifteenth Annual Convention, 1904, p. 136).

³ Constitution, 1897, Sec. 190.

⁴ The Bridgeman's Magazine, July, 1907, p. 429.

⁵ Joint Arbitration Agreement between the Sewer Contractors' Association and the United Order of American Bricklayers and Stone Masons' Union, No. 21 of the Bricklayers and Masons' International Union, April 1, 1903, to May 1, 1905, p. 62, Sec. 8.

by non-unionists.¹ While the national union of the Painters and of other building trades unions do all in their power to assist in making jobs union "from beginning to end," they do not approve of this policy, since its adoption would deprive union members of employment. In very few cases can a property owner or a contractor be forced to tear a building down and rebuild it in order to be in a position to hire union painters.² Consequently most of the unions in the building trades consider that it is usually the wisest policy to finish an "unfair" building. Here again, expediency is the key-note of union policy.³

The application of the closed-shop rule has been extended in still another direction by the refusal of certain unions to handle non-union material. The unions which are chiefly concerned with non-union material are those which have jurisdiction over establishments in which material is manufactured as well as over the shops in which this material is put into place or finished. The Amalgamated Carpenters, the United Brotherhood of Carpenters, and the Sheet Metal Workers, for example, include "inside men" or shop workers and "outside men" or structural building workers within their jurisdictions. The Sheet Metal Workers have advised their local unions to adopt by-laws forbidding the erection by union members of non-union metal work.⁴ The locals have frequently refused to erect non-union-made pipe elbows, skylights, metal ceilings, and so on.⁵ The Amalgamated

¹ Painters' Journal, November, 1892, p. 4.

² After a strike at Cleveland in 1905 the Sheet Metal Workers actually compelled property owners to tear out metal work put up by "scabs" and strike-breakers (Amalgamated Sheet Metal Workers' Journal, November, 1905, p. 423).

³ At the convention of the State Building Trades Council of California in 1909 General-Counsel Cleveland L. Dam recommended when employers "deliberately embrace the open shop, then the closed shop, then the open shop again, upon their seeking thereafter to be considered 'fair,' that they be denied business intercourse with our organizations. Employers who have deliberately, wilfully and knowingly become 'unfair' should be given to understand that union labor will not do business with them" (Proceedings of the Eighth Annual Convention, 1909, p. 69).

⁴ Amalgamated Sheet Metal Workers' Journal, August, 1904, p. 249.

⁵ Ibid., March, 1903, p. 71; October, 1906, p. 383.

Carpenters impose a maximum fine of fourteen dollars on a member for "fixing, finishing or using work which has been made under unfair conditions, either in the United Kingdom or abroad, or contrary to the recognized rules of the district in which it has been prepared."¹ In the United States this rule has not been strictly enforced.

The United Brotherhood of Carpenters has been more active against non-union material than either the Sheet Metal Workers or the Amalgamated Carpenters. In the early years of its history there was much agitation against the use of "trim" and other mill-work manufactured in towns and cities where the rates of wages were low.² Since 1887 there has been increasing agitation against the use of all non-union mill-work. In the year mentioned the New York City Carpenters were urged not to "touch a piece" of the product of a Poughkeepsie mill owner who had persisted in running a non-union shop.³ By 1897 the situation in New York had become critical. Mill owners in that city who ran union shops were required to pay such comparatively high wages that they could not successfully compete with non-union mills outside the city. Consequently, in order to save the New York mills to the union, the local unions of the Carpenters decided not to put up any non-union "trim" or to work on a job where it was used.⁴ Many strikes were called. The movement against outside non-union trim finally assumed such importance that the executive board of the International union gave financial assistance to the New York district council.⁵ As a result of this movement the Carpenters claim that many mills in the small towns about New York were unionized.⁶

In many other localities similar measures have been taken by local unions and district councils of the Carpenters.

¹ Rules in Operation January 1, 1905, Rule 48, Sec. 1. American Edition.

² *The Carpenter*, August, 1881, p. 2.

³ *Ibid.*, March, 1887, p. 1.

⁴ *Ibid.*, May, 1897, p. 1.

⁵ *Ibid.*, August, 1897, p. 9.

⁶ Proceedings of the Tenth General Convention, 1898, p. 32.

More and more the officers of the union have come to believe "that the carpenter, in order to hold what rightfully belongs to him, must control the manufacture of the material" which he erects.¹ In 1904 the constitution of the national union was amended so as to provide that local organizations must promote the use of "trim and shop-made carpenter work" with the union label.² The chief value of the label to the Carpenters at the present time is that it affords a convenient and sure method for union carpenters at work on a building to determine whether "fair" material is being used.

In the stone-cutting trades it often happens that granite, marble, or soft stone is cut in the rough in a yard near the quarry, and then sold to the owners of other yards or shops where it is trimmed and finished. The Granite Cutters, as a rule, refuse to cut or trim work which has been purchased by an employer from the stock of an "unfair" or non-union firm. In their agreements it is frequently provided that no union member "shall be required to cut work taken from non-union firms nor to cut any part of a job if on another part of the same job (wherever it may be cut) non-union cutters are employed."³ Similarly the Marble Workers will not set marble that has been cut by non-union men unless it comes from a place where there is no cutters' local. Marble that has been cut or rubbed by prison labor is unconditionally excluded.⁴ The Granite Cutters also object to cutting granite in the rough which is to be shipped to non-union yards for completion.⁵ At present, practical difficulties prevent much discrimination of this kind, since employers have adopted the plan of giving a number instead of a name to each job. In this way the name of the con-

¹ Proceedings of the Thirteenth General Convention, 1904, p. 38.

² The Carpenter, November, 1904, p. 4.

³ Agreement governing Granite Cutting in Providence, R. I., 1905-1906, Clause 16. The trade is so well organized now that few cases of discrimination against non-union-cut granite have occurred during the past five years.

⁴ Union marble setters in San Francisco in 1908 refused to set marble unless it bore the union label.

⁵ The Granite Cutters' Journal, December, 1905, p. 7; October, 1906, p. 5.

signee is kept secret, and the union, accordingly, never knows on whose job its members are working.

In the steel industry one mill often makes billets and iron bars which are purchased by another mill for rolling. When their organization was strongest, the Iron, Steel and Tin Workers tried to prevent the handling in union mills of non-union bars and billets, but they refused to "stigmatize as 'blacksheep' any person or persons working iron made by 'blacksheep.'"¹ In 1888 they also rejected a resolution forbidding union mills to furnish material to non-union plants.² In one or two cases the Teamsters have refused to unload railway cars that had been loaded by non-union men in other cities.³ This action was taken only after the local unions where the loading had been done had appealed to other local unions to strike against handling the cars.⁴

Finally, the question has been raised in some of the unions of the building trades whether union members should work for a "fair" contractor on a building whose owner has let another job to an "unfair" contractor. The national unions in these trades so far have not sanctioned the making of all jobs done for a property owner an extended closed shop. To call a strike against the "fair" contractor would result only in injuring him, since he has no means of compelling the property owner to unionize the other jobs.⁵

Several considerations have been influential in extending the closed-shop rule in the directions which have been indicated. In the first place, unions object to considering sub-

¹ Proceedings of the Thirteenth Annual Convention, 1888, p. 2499.

² Ibid., p. 2494.

³ The Labor Compendium, June, 1905, p. 5.

⁴ A proposition was offered in 1902 at the convention of the Meat Cutters and Butcher Workmen that union market cards, certifying an establishment to be a union shop, should not be placed in markets where "unfair meats" were sold. "After much discussion it was stated by the delegates that many packing houses were open houses and they deemed it unwise to adopt any such resolution." Accordingly it was defeated (Proceedings of the Fourth General Convention, 1902, p. 78). This union has jurisdiction both over retail meat markets and over packing houses where slaughtering is done.

⁵ The Labor Compendium, April 3, 1904, p. 5.

contracts as separate "shops" because they fear that this would result in the splitting up of the work of the trade. If the general contractor were unrestricted in the employment of non-unionists as long as they were under separate subcontractors, he could very easily arrange so as to give them the work requiring less skill. At the same time he could keep union men in his direct employ to carry out the more difficult kinds of work for which skilled workmen are required.¹ The same consideration operates to lead the unions to refuse to complete the erection of buildings on which "scabs" or non-union men have been employed.

Secondly, it is regarded as necessary for the protection of the union label that all work done for an employer who uses the label should be done by unionists. The label is intended to indicate to consumers that the product on which it is displayed has been made under union conditions. If a manufacturer ran one of his shops as a union shop and another as a non-union shop, there would always be the chance that labels would be used on the goods made in the non-union shop. To prevent this would require a more efficient machinery for the administration of the label than the unions have yet devised. Moreover, consumers would be confused if part of the goods made by a firm were union and part non-union. In non-label-using unions which maintain a "fair list" the same difficulties would be encountered.

Thirdly, and more important than either of the foregoing, the extended closed shop serves as a lever to increase the strength of the unions. If an employer wishes one of his shops placed on the "fair list" or if he wishes to have the use of the label, the union takes advantage of this desire to force the unionizing of all. Even where the "fair list" or the label is not involved the extended closed shop may serve in the same way to strengthen the hold of the union on the trade. An employer in one place may be practically unable to run a non-union shop, while he may prefer to run another of his shops in another place as non-union. The

¹ *The Carpenter*, March, 1908, p. 20.

union may by enforcing the extended closed shop compel the unionizing of all his shops. Obviously, a variety of elements determine whether in any particular case a union can thus strengthen itself, since the employer may prefer to run all non-union shops rather than all union. It is for this reason that the extended closed shop is enforced with so little uniformity.

Similarly, the union by refusing to finish work begun by non-unionists, to erect or handle material made by non-union men, or to handle work which has passed through or which is going into the hands of non-unionists may transform non-union shops into union. The market for non-union material may be so restricted that its manufacture becomes unprofitable. The building which union men refuse to complete may prove a losing venture to the contractor. The proprietor of a non-union granite yard, finding that he cannot purchase stone from union yards, may be compelled to unionize his own yard.

The extended closed shop is also in some of its phases a reflection of the nationalizing tendency exhibited in every department of trade-union policy. The idea that the interests of all local unions are the same has been much promoted by the increasing power of the national unions. That strong local unions should aid weak ones is fundamental in the most highly developed American unions. In the building trades unions and in the Longshoremen¹ particularly the extended closed shop has proved to be perhaps "the strongest weapon of mutual protection" among the local unions.

¹ Commons, J. R., "Types of American Labor Unions: The Longshoremen of the Great Lakes," p. 70.

CHAPTER V.

THE JOINT CLOSED SHOP.

It has been noted in the chapter on the simple closed shop that when a national union has jurisdiction over two or more branches or trades organized into separate local unions, it is usual to require local unions of one trade to assist local unions in the other trade to establish the closed shop. Very often, however, combinations have been formed among national unions and among local unions of different national unions for the purpose of securing mutual discrimination against non-union men. The group of shops thus covered in any particular case may be fittingly called, in the aggregate, a "joint closed shop." The joint closed shop is distinguished from the "extended closed shop" by the fact that the cooperation against the employment of non-union men is among national unions or among the branches of different national unions. The joint closed shop has been principally employed in certain well-defined groups of allied trades. These will be considered in the order of their importance.

The building trades.—In strong trade-union centers it has been increasingly difficult in recent years to get a union man of one trade to work with a non-unionist of any other trade on structural building work. In many cases discrimination against non-unionists has been extended even to unskilled building laborers. It has been comparatively easy to secure the cooperation of the unions in the building trades in establishing the joint closed shop because their members ordinarily work in intimate association with each other. Although jurisdictional disputes have hindered the development of amicable relations, there has been, on the whole, a greater sense of unity and a stronger spirit of fellowship

among the building trades unions than among any other group of unions.

Another factor in the success of the joint closed shop in the building trades has been that six or seven unions of approximately uniform strength and influence include the great mass of the workmen. These unions are the more willing to assist each other inasmuch as each of them incurs practically the same risks and secures practically equal benefits by joint action. The smaller unions have also usually been willing to assist to the extent of their power in any joint movement, but the greatest factor in the success of the joint closed shop among these unions has been the peculiar effectiveness of the sympathetic strike in the building trades. Since a building must be erected on a certain spot and within a fixed time, a strike even of a single union is a serious matter; but if a group of unions strike simultaneously to redress the grievance of one, the employer is placed at an enormously increased disadvantage.

It is impossible to ascertain with exactness the date at which the joint exclusion of non-union men from employment was first undertaken in the building trades. We do know, however, that soon after 1865 there came into existence a number of local "building trades leagues," whose object, in part, was to prevent the employment of "scabs" on buildings where union men of any trade were at work.¹ As was the case among the early trade societies, it will be noted that the first class of non-unionists discriminated against were "unfair" men.

Building trades leagues, or "councils," as they soon came to be called, increased in number so that by 1890 they had been established in New York, St. Louis, New Orleans, Augusta, Georgia, Richmond, Virginia, and other cities of importance. By each of these councils "scabs" were excluded from employment on work within the jurisdiction of affiliated unions. Moreover, in some of them after 1882 it was agreed that the "societies therein represented" use

¹ The Carpenter, May, 1881, p. 2.

their "united strength" to "compel non-unionists to conform to and obey the laws of the society that they shall properly belong to."¹ When a "trade society" had used "every lawful means to induce all non-union men to become members of their respective unions under the same rate of wages" and had failed, the council by vote of its "walking delegates" was authorized to "*order* the withdrawal of any or all *trades* or societies which may be on buildings where said non-union men may be employed." During the same period, that is, from 1882 to 1890, local building trades unions in cities where there were no councils occasionally entered into agreements "to call off all workmen on jobs where bosses hire scab labor" or non-unionists of either craft.² Most of the agreements of this character were made between local unions of the Carpenters and the Bricklayers and Masons³ and between local unions of the Carpenters and the Painters.⁴

After 1890 a large number of new councils were established, all of which attempted to enforce the joint closed shop. In 1897, under the leadership of the St. Louis council, there was formed a national organization known as the "National Building Trades Council,"⁵ which was designed to include all local building trades councils. One of the nine cardinal principles of the Council was the enforcement of the "working card system." The Council issued a working card which could not be obtained by a workman until he had procured a card in his own union. Business agents or "walking delegates" were expected to see that every man on a building carried the "building trades card." The Council did all in its power to secure the establishment in all cities of the joint closed shop. It frequently threatened to revoke

¹ Amalgamated Building Trades Council (New York), Constitution and By-Laws, 1885, Art. V, Sec. I.

² Painters' Journal, February, 1891, p. 1.

³ Bricklayers and Masons, Proceedings of the Twenty-first Annual Convention, 1887, p. 50.

⁴ Painters' Journal, September, 1889, p. 1.

⁵ Since 1904 known as the "International Building Trades Council."

the charter of a local council which refused to fine or expel affiliated unions declining to strike against non-unionists of an affiliated trade.¹ It also adopted a label to be placed on buildings erected entirely by union labor.

The Council was an association only of local unions, and conflicts with the national unions in the building trades were frequent. In 1904 a number of national building trades unions formed the "Structural Building Trades Alliance."² Subsequently, in 1908, this organization became the "Building Trades Department" of the American Federation of Labor. The Alliance established local councils and retained the "working card system" of the National Building Trades Council. At the present time the Building Trades Department expects the local councils, where practicable, to enforce the joint closed shop, but they are not required to do so. It does not encourage a joint strike against non-unionists unless there is a fair chance of success.³

In some cities the building trades councils have remained independent of all national organizations. These councils are, however, quite as much in favor of the joint closed shop as are the local councils affiliated with the Building Trades Department. Moreover, in many small cities where only two or three trades have been organized and it is not practicable to form a council, the unions have often concluded agreements among themselves to act together in excluding union men. It has happened that the allied unions have refused to work with non-unionists of a completely

¹ Proceedings of the Seventh Annual Convention, 1904, p. 66.

² For a more extended account of the history, structure, and functions of the National Building Trades Council and of the Structural Building Trades Alliance, see Kirk, "National Labor Federations in the United States," in Johns Hopkins University Studies in Historical and Political Science, Ser. XXIV, Nos. 9-10, pp. 79-115.

³ The New York Building Trades Council (Rules, 1910, Sec. 37) provides that "wherever, or whenever, non-union men are found working, immediate action shall be taken by the business agents to enforce union conditions on all work; any trade connected failing to cooperate when notified of said conditions shall stand suspended, and can only be reinstated upon payment of one hundred dollars." New York has always been a stronghold of the building trades unions.

unorganized trade. This has frequently resulted in the formation of a union in that trade.¹

Although the joint closed shop has been enthusiastically supported by the building trades unions affiliated with the American Federation of Labor, the Bricklayers and Masons have refused to enter into any alliance for this purpose. The International union permits its subordinate unions to join a building trades council, but it will not allow a council or any other "foreign combination" to fine or otherwise discipline bricklayers or masons.² Furthermore, if a subordinate union enters into a sympathetic strike for the purpose of assisting a union of another craft, it cannot obtain strike benefits from the funds of the International union,³ which believes that its local organizations should owe allegiance to it alone and that they should not be embarrassed by entangling alliances.⁴

In Washington, D. C., in 1907 all of the building trades unions with the exception of the Bricklayers and Masons went out on strike to enforce the joint closed shop.⁵ This failure to join in the strike proved serious to the other unions. The Bricklayers and Masons have pursued a similar policy in other strikes for the joint closed shop. The other unions in the building trades resent the "splendid isolation" of the Bricklayers, and building trades councils have on more than one occasion struck against union bricklayers and masons because they did not carry "building trades cards."⁶ Pressure of this kind has induced some subordinate unions of the Bricklayers to join the councils and to make agreements for the joint closed shop with local unions

¹ The Carpenter, July, 1903, p. 1.

² Thirty-seventh Annual Report of President and Secretary, 1902, p. 157.

³ Constitution, 1910, Art. XVII, Sec. 11.

⁴ The other building trades unions assert that the Bricklayers and Masons have adopted this policy because they are the first to go to work on a building and can more completely "tie up" a job by striking than any other organization.

⁵ Bricklayers and Masons, Forty-second Annual Report of the President and Secretary, 1907, p. 128.

⁶ Ibid., Thirty-sixth Annual Report of the President and Secretary, 1901, p. 276.

of the Carpenters, Plasterers, Hod Carriers, and Stone Cutters. Both the National Building Trades Council and the Structural Building Trades Alliance have, however, been opposed to strikes against members of a non-affiliated union. They have argued that by assisting such unions local councils can better induce them to affiliate. In spite of the criticism of the other building trades, the Bricklayers and Masons show no signs of any change in their policy.

Certain unions which are not usually classed as building trades unions have, to some extent, been included in the joint closed shops of the building trades. In the large cities, Machinists' local unions, which have jurisdiction over the erection of engines and other machinery in buildings, are usually allowed to have representatives in the building trades councils. This privilege is not very valuable if the council is organized as a section of the Building Trades Department of the American Federation of Labor, since the policy of the Department is not to allow strikes in aid of a union which is not affiliated with the Department through its national union. By independent councils, like the Associated Building Trades of Chicago, the Machinists are given as much assistance in settling their grievances as are the Carpenters or Painters, and joint strikes are sometimes called against non-union machinists.¹ The Teamsters have also joined with the building trades unions in the maintenance of a joint closed shop.² In a number of cities agreements have been made that union teamsters shall not deliver material to buildings on which non-union men are at work, and also that union carpenters, bricklayers, structural iron workers, and so forth, shall not receive building material hauled by non-union teamsters.³ In many places neither the unions of

¹ Machinists' Monthly Journal, February, 1908, p. 141.

² In 1901 the Musicians and the Theatrical Stage Employees sent circulars to the building trades unions of Colorado asking them not to work in the theatres of a certain manager because he had refused to recognize the two unions. No action on the request was reported (*The International Musician*, July, 1901, p. 5).

³ The Team Drivers' Journal, October, 1902, p. 10; *International Brotherhood of Teamsters, Proceedings of the Fifth Convention*, 1907, p. 285.

the building trades nor the Teamsters wish to become involved in each others' disputes, but the adoption of some plan for joint discrimination against non-members seems to be growing in favor.¹ Assistance in the maintenance of the joint closed shop in the building trades is afforded by the Brewery Workmen. When the owner of a union brewery builds an addition to his plant or has repairs made, he is required to have such work done by union men. As the Brewery Workmen have substantial control of the brewing industry, they are able to enforce this rule.

The power of the joint closed shop has been frequently used to enforce the extended closed shop. The National Building Trades Council, through its general secretary-treasurer, on more than one occasion has expressed itself as opposed to allowing "fair" employers to sublet work to non-union firms. An agreement between a local council and employers allowing non-union subcontracting was declared to be "a peculiar guarantee," permissible only in lockouts "as a policy to keep the council and unions intact."² It was also one of the aims of the National Building Trades Council to compel an employer to be "fair" to the affiliated unions in all parts of the country. At the time of its organization in 1897 many building contractors no longer confined themselves to local operations but undertook work in many different sections. If one council became involved in a dispute with a contractor while he was carrying on work under the jurisdiction of another council, it was the policy of the national organization where practicable to force the contractor to grant union conditions in the former locality as the price of employing union men in the latter.³

It was made, for example, a subject of complaint at the convention of the State Building Trades Council of California in 1909 that the union carpenters of Salinas City were compelled to receive lumber and other material "from non-card-carrying drivers" (*Proceedings*, 1909, p. 96).

¹ Report of Proceedings of the Seventh Annual Convention, 1904, p. 70. See also *The Labor Compendium*, May, 1905, p. 7, for the New York arbitration agreement.

² The International Building Trades Council. Its Origin, Object and Benefits, p. 8.

The councils have also frequently supported one of their affiliated unions in its refusal to handle non-union material the manufacture of which was under its trade jurisdiction. As early as 1887 the building trades league at Augusta, Georgia, forbade affiliated unions to handle material made or even sold by a firm or company which did not "recognize fifty-eight hours as a week's work."¹ The leagues at this time also frequently refused to use convict-made materials.² At a somewhat later date they assisted the Carpenters in boycotting material from planing mills and sash factories where strikes were in progress.³ When the National Building Trades Council was formed, the agitation against the use of non-union material increased greatly. Each local council was allowed to decide for itself whether it would handle non-union work, but the national organization frequently urged the local councils to discriminate against such material. As a matter of fact, most of the building material which was discriminated against was made by "unfair" firms. It was only rarely that material was boycotted simply on the ground that it was made by a non-union firm.⁴

The Structural Building Trades Alliance and its successor, the Building Trades Department of the American Federation of Labor, have continued the policy of the National Building Trades Council. The councils have not been forced to assist affiliated unions in excluding "unfair" material. Indeed, a council will not ordinarily take any action unless a complaint has been made by the union concerned. If the Carpenters, for instance, wish to have the output of a certain mill boycotted by a council, they must

¹ *The Carpenter*, October, 1887, p. 5.

² *The Painter*, December, 1887, p. 1.

³ *Bricklayers and Masons*, Twenty-sixth Annual Report of President and Secretary, 1891, p. lxviii.

⁴ In reply to a question as to what benefit it had derived from its connection with the National Building Trades Council, the Chicago Council answered: "The refusal of trades affiliated with the Building Trades Councils of Kansas City, Omaha and Detroit to handle marble manufactured in shops that were on strike in this city" (Report of Proceedings of the Third Annual Convention, 1900, p. 15).

petition for assistance.¹ Joint discrimination against non-union materials therefore is not nearly so widespread as that against non-union men.² It is very seldom that any union in the building trades refuses to work on non-union material the manufacture of which is within the jurisdiction of unions other than those of the building trades.

In spite of certain restrictions upon the calling of joint strikes, in 1903 so many were inaugurated that the National Building Trades Council was unable to finance all of them.³ While no statistics are available to show how far these strikes were successful, it is noteworthy that there have been few notorious failures. The unions have been highly satisfied with the results, and employers have admitted that great gains have been made for the unions by such strikes.⁴ In the near future the Building Trades Department of the American Federation of Labor aims to "establish a chain of building trades councils throughout the land which will compel the respect of employers and enforce discipline among workers."⁵

¹ State Building Trades Council of California, *Proceedings of the Eighth Annual Convention, 1909*, pp. 161-162.

² The Bricklayers and Masons have occasionally made local agreements with the Granite Cutters and the Stone Cutters in which it is provided that the former shall not "build on or back up" any work where the stone is cut by "scabs," and that the latter shall not cut stone to be sent to jobs where non-union masons and bricklayers are at work.

³ Report of Proceedings of the Sixth Annual Convention, 1903, p. 170.

⁴ "It was agreed by both sides that the use of the sympathetic strike had been a powerful influence in unionizing the building trades of Chicago" (Report of the Industrial Commission, Vol. VIII, p. xxi).

⁵ *Amalgamated Sheet Metal Workers' Journal*, December, 1908, p. 470. In December, 1910, one hundred and forty-three local councils and two state councils, comprising twenty-four county and city councils, were affiliated with the Department. The following national unions were also affiliated: The Asbestos Workers, the Bridge and Structural Iron Workers, the Amalgamated Carpenters and Joiners, the Cement Workers, the Electrical Workers, the Elevator Constructors, the Steam Engineers, the Granite Cutters, the Hod Carriers and Building Laborers, the Lathers, the Marble Workers, the Metal Workers, the Painters, the Plasterers, the Plumbers, the Composition Roofers, the Slate and Tile Roofers, the Stone Cutters, and the Tile Layers.

The metal trades.—In the metal trades the development of joint action against non-unionists has been much slower than in the building trades largely because there has been less opportunity for the advantageous use of joint and sympathetic strikes. A building must be constructed on a particular piece of ground, but metal work can be transferred from one shop to another and from one city to another. The unions of the metal trades for this reason have never shown enthusiasm over the possibilities of joint action. The indifference toward non-unionism in other allied trades might perhaps have been less if the Molders, who are far and away the strongest union in these trades, had not refused to take the lead in securing the joint closed shop. They, like the Bricklayers, believe that nothing is gained for themselves by interfering in behalf of the unions of allied trades. The other unions in the group, deprived of their natural leader, are practically powerless to effect combinations for the exclusion of non-union men.

A good illustration of the Molders' policy toward the other unions of the metal trades is afforded by a review of their relations with the Core Makers and the Pattern Makers. With the trades represented by these two unions the Molders come into intimate association in all foundries. In some cases non-union pattern makers and core makers were excluded from employment with union molders, but for a number of years the Core Makers attempted fruitlessly to obtain an agreement providing that no molder "be allowed to work with a non-union core maker, or vice-versa."¹ Finally in 1903 the Core Makers, at their request, were amalgamated with the Molders. The Pattern Makers and the Molders do not even yet discriminate jointly against non-unionists, except in isolated cases.

Probably the first union in the metal working trades in which it was proposed to resist the employment of non-unionists outside of its own trade jurisdiction was the Iron and Steel Roll Hands. In 1874 a plan was laid before the

¹ Molders, *Proceedings of the Twenty-second Session, 1902*, pp. 617-618.

convention of that union providing for an amalgamation with the United Sons of Vulcan and the National Union of Rollers, Roughers, Catchers and Hookers of the United States. To this resolution an amendment was offered that no union roll hands work with "black-sheep, either Puddlers or Heaters," and that if "either party be on strike our organization shall sustain them."¹ Partly as an evidence of the good-will of the Roll Hands, it was intended that this measure should go into operation before the amalgamation was consummated, but after lengthy discussion the amendment was lost.

The first joint action against non-unionists in the metal trades was against "scabs," and particularly against "strike-breakers." Thus in 1881 the Molders in a Pittsburgh foundry refused to work on patterns made by "scabs," after the union pattern makers in the employ of the concern had gone out on strike.² Similarly the Machinists at various times have refused to handle "scab-made" castings³ and boilers⁴ when a strike was in progress in the foundry or boiler-shop of the concern where their members were employed. Such action has usually been taken only after an appeal for help has been made by the union on strike. At the present time there is much indifference among the metal trades unions about working with "unfair" and blacklisted men, as long as the union concerned makes no protest.⁵

There has been even less joint action in these trades against working with ordinary non-unionists. Here and there two or three local unions have come to an understanding jointly to exclude all non-unionists, but no lasting combination has been effected. From 1897 to 1905 the Machinists, the Metal Mechanics, and the Metal Polishers

¹ Proceedings of the Second Annual Convention, 1874, p. 16. The unions having jurisdiction over the manufacture of iron and steel are seldom classed among the metal trades unions. They have never been on terms of intimate relation with other unions.

² Iron Molders' Journal, March, 1881, p. 8.

³ Ibid., February, 1896, p. 69.

⁴ Report of the Grand Master Machinist to the Seventh Convention, 1897, p. 5.

⁵ Machinists' Monthly Journal, March, 1902, p. 143.

issued a joint label the use of which could be obtained only by those establishments which maintained closed shops as far as the three organizations were concerned.¹

In 1908 the American Federation of Labor organized a "Metal Trades Department." At the outset the Department formed branches in about fifty important cities.² It aims ultimately to bring about the full cooperation of the affiliated unions on all matters of common concern. Although its published program contains no mention of joint discrimination against non-unionists, there is no doubt that the Department favors the establishment of the joint closed shop among the unions in the metal trades. In January, 1910, the Philadelphia branch was authorized to introduce the "card system" for three months,³ but no strikes were called to enforce the carrying of union cards. It was thought that if unionists were all furnished with cards of the branch, the non-unionists could be distinguished and many of them might be induced to join the proper union. As the Philadelphia experiment has not been repeated, the presumption is that it did not prove a success. Since the formation of the Department, however, there is no doubt that the sentiment among the unions in favor of the joint closed shop has greatly increased, but the employers in some of the trades are strongly organized in open-shop associations, and the unions cannot hope for rapid progress.

Unions of the metal trades acting separately have also at certain times obtained the employment of unionists in the other trades. Thus the Blacksmiths in 1901 signed a closed-shop agreement at Ottumwa, Iowa, which provided that all employees not eligible as members of the Blacksmiths' union

¹ Spedden, p. 22.

² Affiliated with the Metal Trades Department in January, 1911, were the Sheet Metal Workers, the Blacksmiths, the Boilermakers and Iron Shipbuilders, the Electrical Workers, the Steam Engineers, the Steam Fitters, the Foundry Employees, the Machinists, the Metal Polishers, Buffers, Platers and Brass Workers, the Molders, the Pattern Makers, and the Stove Mounters.

³ Letter from Secretary-Treasurer Berres to the writer, February 22, 1910.

should belong to some other bona-fide organization.¹ The metal trades unions have been supported at times by union teamsters, engineers, and stationary firemen, who have refused to work with "unfair" metal workers.² The Metal Polishers, the Steam Engineers, and the Stationary Firemen in 1903 proposed an agreement to the Kellogg Switchboard and Supply Company of Chicago in which it was provided that the company should employ "none but members of the aforesaid organizations or those who carry the regular working card of such organizations, provided the various crafts will furnish such competent help as may be required . . . within twenty-four hours after notification."³ The Brewery Workmen insist that none but union machinists, boilermakers, and so forth, shall be employed in union breweries.⁴ Finally, there is a more or less general understanding between the Machinists and the printing trades unions, particularly the Printing Pressmen, that non-union machinists shall not be allowed to set up machines in union offices.⁵

The printing trades.—At one time all of the printing trades were under the jurisdiction of the International Typographical Union. In the earlier years compositors, pressmen, and bookbinders were combined in the same local unions. About 1874 separate local unions of pressmen began to be chartered, and later on the same policy was followed with regard to bookbinders and stereotypers. Almost immediately after the first charter was issued to pressmen the president of the International union recommended that printers' and pressmen's locals be required to cooperate with each other in matters of common interest.⁶ In 1875 a resolution was adopted providing that when a non-union

¹ Blacksmiths' Journal, April, 1901, pp. 7-8.

² Machinists' Monthly Journal, March, 1903, p. 211.

³ Christensen v. The People, 114 Ill. App., 40.

⁴ Brewery Workmen, Proceedings of the Seventeenth Convention, 1908, p. 160.

⁵ Machinists' Monthly Journal, February, 1903, p. 115.

⁶ Report of Proceedings of the Twenty-second Annual Session, 1874, p. 13.

man, whether pressman or compositor, was employed in an office, "it shall be obligatory on the part of all union men to cease work in said office unless they have the consent of both unions to continue."¹ In the following year this rule was rescinded.² In 1879 all union men were required to cease work with a non-unionist, pressman, or printer, "when so ordered by their unions."³ Finally, in 1891, resolutions were passed urging printers to do their utmost "to unionize all the other departments of offices under their control."⁴

In spite of the fact that the International union thus gave its sanction to the establishment of the closed shop in all branches of the trade, the local unions very rarely acted together. Time and again the national officers, particularly the heads of the allied crafts,⁵ called attention to the lack of joint action. The weaker unions continually urged that no office be considered "fair" unless it was "fair from cellar to garret," but their demands were generally ignored.

The pressmen seceded from the International Typographical Union in 1889. They were followed by the bookbinders in 1892, but it was not until 1895 that the Printers gave up their claims of jurisdiction over the seceding trades. In that year an agreement known as the "Tri-Partite Agreement" was entered into between the Printers, the Printing Pressmen, and the Bookbinders. The only section in the agreement directly affecting the joint closed shop, other than that regulating the use of the label, provided that subordinate unions of the Printers should "use all honorable endeavors to induce non-union pressmen and bookbinders within their jurisdiction to affiliate with the nearest union

¹ Report of Proceedings of the Twenty-third Annual Session, 1875, p. 62.

² Report of Proceedings of the Twenty-fourth Annual Session, 1876, p. 62.

³ Report of Proceedings of the Twenty-seventh Annual Session, 1879, pp. 34, 42-43.

⁴ Report of Proceedings of the Thirty-ninth Annual Session, 1891, p. 112.

⁵ The subordinate crafts each had a vice-president to represent them on the executive board of the International union.

of their respective organizations."¹ The agreement remained in force until 1901, when it was finally abrogated. Under it practically no progress was made in establishing joint closed shops.²

In 1904 a new agreement was made by the Printers, the Printing Pressmen, the Bookbinders, the Stereotypers, and the Photo-Engravers under which a "National Allied Printing Trades Council" was established.³ This agreement, with certain amendments, is still in force. No reference is made therein to cooperative action against the employment of non-unionists in the different trades, but an allied trades label was adopted, to be issued to printing offices by local "allied printing trades councils" when "unanimous consent of the unions represented" had been obtained.⁴ Care has been taken that the joint label is not used except in accordance with this provision,⁵ but strikes have seldom been called by one trade to compel an employer to unionize another department of his office.

In a few cities, however, vigorous joint campaigns have been carried on against "rats" and other non-unionists.⁶ Both the Printing Pressmen and the Stereotypers have refused to handle "strike-bound" composition. During the eight-hour strike of the Printers in 1905-1907 the Stereotypers in New York, Chicago, Cincinnati, Minneapolis, Richmond, Virginia, and other cities went out on prolonged strikes because they were asked to handle non-union matter.⁷

¹ Bookbinders, Official Proceedings of the Fourth Annual Convention, 1895, p. 49.

² The International Bookbinder, April, 1901, p. 6.

³ The Stereotypers and the Photo-Engravers in the meantime had also seceded from the Typographical Union. Prior to 1904 the Stereotypers had an agreement with the Printers requiring the latter's local unions to insist upon union-made stereotype plate matter, electrotpe plates, and papier-maché matrices.

⁴ Spedden, pp. 84-86.

⁵ Where the labels of the individual unions are still used they are not ordinarily given to an office where non-union men of any trade are employed. The Printing Pressmen complain that the Typographical Union often violates this rule.

⁶ The American Pressman, December, 1902, p. 27; December, 1908, p. 14.

⁷ Stereotypers and Electrotypers' Journal, August, 1907, p. 4.

Had it not been that the Stereotypers themselves wished to secure the eight-hour day, it is not likely that they would have interested themselves in opposing the employment of non-union printers. It is noteworthy that when the long Cincinnati strike was at its height, Vice-President Frey in his report on the situation argued in favor of refusing to handle "strike-bound" composition, but declared that for the Stereotypers to object to all non-union work was something which neither Printers nor Stereotypers had ever proposed. Many composing rooms in Cincinnati had always been non-union, although the stereotyping and electrotyping departments in the same offices employed only union men.¹

The chief hindrance to the wider enforcement of the joint closed shop in the printing trades has been the stand taken by the International Typographical Union. This organization has always maintained that as a printers' union it is primarily for the benefit of printers, and that it should not be used as a "club" to unionize the workmen of other trades. As has been shown above, this feeling prevailed even when the trade jurisdiction of the union extended over all the printing trades. Since the agreement of 1904 the progress of the joint closed shop has been retarded by the continual struggle of the four weaker unions to gain control over the joint conference board. Even the Printers have expressed the belief that the allied trades "should rid themselves of the merited reproach begotten of union pressmen and bookbinders working with non-union compositors and vice-versa."² It is acknowledged that "too often the Allied Printing Trades Council is considered a farce or joke."³

The glass trades.—No federation of unions has ever been

¹ Stereotypers and Electrotypers' Journal, August 1906, p. 15.

² The Typographical Journal, July, 1897, p. 14.

³ Stereotypers and Electrotypers' Journal, May, 1907, p. 15. In 1904 the New York State convention of the Allied Printing Trades Councils declared itself "strongly opposed to the 'open shop' in any department of our allied trades, whether it be in national, state, municipal government, or private corporation or firm" (The International Bookbinder, September, 1904, p. 170). The secretary of the joint conference board estimates that there are now about seven thousand printing offices using the allied trades label.

formed in the glass industry. Accordingly the joint closed shop has been developed only as a part of the policy of individual unions. In 1902, after having rejected a similar proposition the year previous, the Glass Bottle Blowers adopted a resolution providing that its members should refuse to blow for non-union stopper grinders, a trade then under the jurisdiction of the Flint Glass Workers.¹ This action was apparently taken at the solicitation of the latter union.² Soon afterwards, in 1905, the Blowers extended their jurisdiction over stopper grinders and forced them to change their affiliation.³

For many years the Glass Bottle Blowers in most shops required mold makers working in union bottle factories to belong to the Flint Glass Workers,⁴ but they refused to sign an agreement to make this a rule for all shops on the ground that there were often not enough union mold makers to fill the needs of "fair" manufacturers.⁵ As a result of a jurisdictional dispute of long standing, the Flint Glass Workers in the fall of 1909 called out on strike all mold makers in union bottle factories at Alton, Illinois. The Glass Bottle Blowers then permitted the employment of machinists as mold makers. This policy proved successful, and the Blowers determined to drive out entirely the mold makers who were affiliated with the Flints. This was rapidly accomplished, and mold makers employed in shops under the jurisdiction of the Blowers are now required to be members of the International Association of Machinists. For a number of years prior to 1899 there was an organization among the sidelever pressers in glass bottle factories called the Green Glass Pressers' League. The Glass Bottle Blowers usually required pressers and pressers' gathering boys in union fac-

¹ Proceedings of the Twenty-sixth Annual Session, 1902, p. 120.

² Flint Glass Workers, Proceedings of the Twenty-fourth Annual Convention, 1902, p. 186.

³ Proceedings of the Twenty-ninth Annual Session, 1905, p. 139.

⁴ Flint Glass Workers, Proceedings of the Fifteenth Annual Convention, 1892, p. 179.

⁵ Glass Bottle Blowers, Proceedings of the Twenty-sixth Annual Session, 1903, p. 29.

tories to belong to the League. Since 1899 the pressers have been required to join the local unions of Blowers.¹

Waterfront and marine trades.—In New York City and vicinity there has been in existence for a number of years a federation known as the "Marine Trades Council." It is composed of unions which have jurisdiction over the construction and repair of steam and sailing vessels. In some cases it has called joint strikes against the employment of non-union men in one of the affiliated trades. In San Francisco there is a much older organization of similar character known as the "City Front Federation." It admits to membership all local unions "whose members are directly employed in the construction or repair of docks and vessels, the handling and hauling of cargoes, and the handling of vessels, steam or sail."² Provision is made for joint strikes, and some strikes have been called against the employment of non-union men in one of the affiliated unions. In New Orleans the "Dock and Cotton Council" has contrived to enforce the exclusive employment of union men in handling all freight from the time it reaches the city until it is placed on board ship.³ The Teamsters, the Freight Handlers, and the Longshoremen are the unions chiefly interested in the council.

The Seamen and the Longshoremen have not joined in the enforcement of the closed shop as fully as might have been expected from their intimate relations, but some local unions of Longshoremen on the Great Lakes have forbidden their members to work with non-union sailors or to unload

¹ The Flint Glass Workers have often accused the Glass Bottle Blowers of bad faith. In 1901 their president said: "It is only a few years since pressers, gatherers, stopper grinders and mould makers were permitted to work in green houses without regard to their being affiliated with any union. . . . If by refusal to accept lower wages they were compelled to leave the employ of any company, non-union men might take their places and the Glass Bottle Blowers Association would not interfere. . . . All of a sudden the Green Association has discovered a great interest in pressers, gatherers, mould makers and stopper grinders, particularly pressers and gatherers" (Proceedings of the Twenty-third Annual Convention, 1901, p. 60).

² Constitution, 1908, Art. II, Sec. 3.

³ Facts, February, 1911, pp. 12-13.

vessels manned by them.¹ In 1901 it was recommended by a committee of the Longshoremen that marine firemen and oilers, who were under the jurisdiction of the Longshoremen, should see that wheelmen and watchmen were members of the Seamen's union,² but no action was taken on the recommendation. In 1903 a resolution was adopted authorizing local unions of the Longshoremen to refuse to work with non-union crews on vessels whose owners were not members of the Lumber Carriers' Association.³ When the open-shop campaign of the Lake Carriers' Association was inaugurated in 1909, there was bad feeling between the Longshoremen and the Seamen, consequently when the Seamen were locked out, the Longshoremen did not refuse to unload vessels manned by "scab" sailors.⁴ Soon afterwards they themselves were also locked out. Changes in the official personnel of the Longshoremen which occurred at this time and the common danger threatening the two unions were responsible for the establishment of closer relations. It is not unlikely that in the near future the Seamen and the Longshoremen "will be cemented together by mutual protective working agreements."⁵

The Marine Engineers, the International Pilots' Association, and the American Association of Masters, Mates and Pilots are organizations of marine officers. The International Pilots' Association has a rule that, except with the consent of the executive council, no member shall employ for service on any steam or sail vessel seamen who are not members of a seamen's union affiliated with the American Federation of Labor.⁶ The American Association of Mas-

¹ Longshoremen, Proceedings of the Tenth Annual Convention, 1901, p. 35.

² *Ibid.*, p. 150.

³ Proceedings of the Twelfth Annual Convention, 1903, p. 196. The Longshoremen have always preferred to deal with employers' associations. Hence the tactics of the union in this case were undoubtedly designed as much to force vessel owners into the Lumber Carriers' Association as to exclude non-union men from employment.

⁴ The Buffalo Express, April 14, 1909, p. 1.

⁵ The Longshoreman, December, 1909, p. 3.

⁶ Constitution, n. d., Art. XVI, Sec. 1.

ters, Mates and Pilots, on the other hand, refuses to aid in the organization of seamen. It does not even demand the closed shop for its own members. The Marine Engineers occupy middle ground. In 1909 the Lake Carriers' Association adopted an official form of contract to be signed by individual engineers in which the following provision appeared: "It is understood that all departments of this ship will hereafter be conducted in each department upon the *open shop* principle, and your cooperation will be required in carrying out this principle." The Marine Engineers refused to let their members sign this contract, partly on the ground that it was improper for them to aid in forcing the open shop on the Seamen and Longshoremen, but they were willing to agree not to cooperate with these unions in securing the joint closed shop.

The wall paper trades.—The two unions composing the "Allied Wall Paper Trades," namely, the Print Cutters and the Machine Printers and Color Mixers, have maintained joint closed shops since 1903. Even when the cutting and the printing are done in separate establishments the Machine Printers will not handle non-union "prints," nor will the Print Cutters cut patterns for non-union printing houses. In Canada, where the Machine Printers have no local unions, non-union printers are allowed to work with union cutters.

The remaining cases of enforcement of the joint closed shop relate to specific unions.¹

The United Mine Workers.—Prior to 1907 there were associations of mine managers and their assistants in the Illinois and Indiana coal fields. Many of the members of these organizations had been miners and had formerly belonged to the United Mine Workers, consequently they were for the most part friendly to the union. Their friendship was very valuable to the union, and some of the Mine Workers'

¹ In 1908 the American Federation of Labor established a "Railway Employes' Department" with which all unions in the Federation having jurisdiction over railway work are affiliated. Up to the present the attention of the Department has been given chiefly to the settlement of jurisdictional disputes. No attempt has been made to enforce the joint closed shop.

local unions instructed their pit committees to see that managers and their assistants on "card day" were in good standing in the managers' association.¹ In 1900 a resolution was offered at the Mine Workers' convention which provided that "all employees in or about the coal mines must either be members of the United Mine Workers of America or members of their respective trade unions," and that "the pit committees in the different mines have jurisdiction over all such employees belonging to other unions than the United Mine Workers of America."² The resolution was rejected.

American Federation of Musicians.—In some cities the Musicians have an understanding with the Hotel and Restaurant Employees that members of neither union shall work in hotels, cafés, and restaurants "unless all of the trades are recognized." The local unions of the Musicians have also frequently made arrangements with the Theatrical Stage Employees for the joint exclusion of non-unionists from employment in theatres and moving-picture parlors. In 1905 the Theatrical Stage Employees asked for a national agreement, but the Musicians considered that the matter had better be left for local unions to determine.³ Because they are more self-reliant than most of the other unions with which they work the Musicians have frequently been accused of caring little for the interests of the other trades.⁴

The Teamsters.—In addition to their affiliations with the unions of the building and metal trades, noted above, the Teamsters have also joined with the Bakery and Confectionery Workers in maintaining closed shops. In 1902, for example, the Detroit local union of bakers struck in certain bakeries because the proprietors refused to agree to employ

¹ Illinois Mine Managers and Mine Examiners' Mutual Aid Association, Proceedings of the Fourth Annual Convention, 1901, p. 6.

² Proceedings of the Eleventh Annual Convention, 1900, p. 47.

³ Theatrical Stage Employees, Proceedings of the Thirteenth Annual Convention, 1905, pp. 58-59.

⁴ In 1903 the Musicians voted to "enter into reciprocal relations," whenever possible, with the Actors' Protective Union of America. They have not, however, discriminated against non-union actors (Proceedings of the Eighth Annual Convention, 1903, p. 110).

union drivers. The union drivers joined in the strike.¹ There are only a few industries, however, in which community of interest between the drivers and the men in the shops is strongly felt.²

Miscellaneous.—The Granite Cutters for a brief period had an agreement with the Quarrymen in which it was provided that members of neither organization should work with non-unionists in the other trade. The arrangement proved unsatisfactory to the Granite Cutters and was discontinued.

The Shirt, Waist and Laundry Workers and the Meat Cutters and Butcher Workmen³ have secured the insertion in some agreements with employers of a provision that all employees must become members of the unions in their respective crafts. It is seldom that "blanket" agreements of this character are formed. The Shirt, Waist and Laundry Workers have required as a condition for the use of their label that all firemen and engineers employed in a factory or laundry must be members of the Stationary Firemen and the Steam Engineers respectively. If there is no local union of these organizations in the city, the firemen and engineers must join the Shirt, Waist and Laundry Workers.⁴

In 1906 it was proposed at the convention of the Boot and Shoe Workers to adopt a rule that "all employees in union stamp factories shall be members of their respective unions," and that union boot and shoe workers should not "be compelled to work on any product that is declared unfair by the American Federation of Labor."⁵ The resolution was defeated as being inexpedient.

There have been numerous occasions in all parts of the country in which local unions have combined temporarily or permanently for the purpose of securing the exclusive employment of their members. In Philadelphia, for instance,

¹ The Team Drivers' Journal, May, 1902, p. 8.

² The brewery drivers employed by union breweries are required to be members of the Brewery Workmen.

³ Official Journal, February, 1901, p. 5.

⁴ Spedden, p. 88.

⁵ Proceedings of the Seventh Convention, 1906, p. 172.

the members of the two local unions of lace menders and lace finishers will not work for factories which employ non-union lace operatives. In 1904 the stationary engineers, firemen, rock drillers, tool sharpeners, caisson workers, and dock builders engaged on the Pennsylvania Railroad tunnel at New York struck jointly against the employment of non-unionists.¹

It will be seen from the foregoing that the joint closed shop has been most successfully established in those trade groups where the joint or the sympathetic strike is most effective. It has attracted little attention from those unions which work in contact with only one or two others. In the case of unions like the Barbers and the Horseshoers, which do not come in contact with unions of other trades, and in the case of the open-shop organizations, like the Locomotive Engineers, there has been no discussion whatever concerning the joint closed shop. A large number of groups of unions, on the other hand, seem to afford the necessary conditions for the success of the joint closed shop. Jurisdictional disputes, like that between the Glass Bottle Blowers and the Flint Glass Workers, have greatly hindered the development of joint movements against non-union men.

The enforcement of the joint closed shop is usually based on the principle of reciprocity.² The advantage of such an arrangement, especially if the unions are of approximately the same strength, is obvious.³ If one union makes a sacrifice in striking for another union, at another time or place it receives aid. Moreover, the united power of the unions is enormously greater than the power of any one of them. One reason why a more vigorous joint campaign has not been carried on against non-union material is that there is in

¹ The Labor Compendium, July 31, 1904, p. 8.

² The Carpenter, May, 1881, p. 2.

³ "Councils of related trades . . . have a plain economic basis, in that they represent men who work for the same employers, or for employers who cooperate in the same industry. Their technical and industrial relations give them strength in united action. The sympathetic strike, as it develops under their influence, is a formidable weapon" (Final Report of the Industrial Commission, 1902, p. 799).

most cases little opportunity for the unions having jurisdiction over the manufacture of material to assist the unions which handle it. The Bricklayers and Masons may discriminate against non-union bricks, but it is impossible for the Brick, Tile, and Terra Cotta Workers to prevent the owner of a brick-yard from selling to non-union contractors.

Certain unions have discriminated against non-unionists of other trades not so much to get help of the same kind as to secure other forms of assistance. The Brewery Workmen, for example, require the employment of union carpenters, bricklayers, and so forth, in erecting buildings at union breweries; although the other unions are unable to insist directly on the employment of union brewery workers. The brewery workers make no complaint if unionists in the building trades work for one of the few non-union breweries. The Brewery Workers aim merely at increasing the general obligations of other trade unions to them. Much of the enthusiasm manifested by trades councils and city federations against local option and prohibition seems to be inspired by the fact that the Brewery Workmen have always been extremely loyal to other unions. No union has made more effective use of the boycott than the Brewery Workmen.

The enforcement of the joint closed shop does not rest simply on advantages to be gained, but also on the principle widely accepted among unionists that it is "lowering and degrading" to work with non-union men. Many unionists analyze such action by characterizing it as not only "incongruous" but "weakening." It is incongruous because each union insists on the closed shop within its own jurisdiction, and it is weakening because the opportunity to assist another union and thereby gain its good will is lost.¹

American trade unions fully realize the advantage of the joint closed shop, and it is evident that they are likely to make fuller use of it in the future. For years the American

¹ "When you work on the same job where non-union men are employed, you are aiding and encouraging the cause of the open shop, rendering weaker the whole structure of union labor, and in effect cutting your own throat" (Amalgamated Sheet Metal Workers' Journal, November, 1908, p. 434).

Federation of Labor has been striving to bring about alliances among the national unions. At present the Federation seems to have in view the formation of "departments" in every group of allied trades affiliated with it. By doing this the machinery is provided for more vigorous and more extensive discrimination against the non-union man.

CHAPTER VI.

THE ESTABLISHMENT OF THE CLOSED SHOP.

Trade unions follow two methods in organizing the workmen under their jurisdiction. Journeymen may be approached as individuals without regard to the shop in which they are employed, or attention may be concentrated on the workmen employed in a particular shop. The first method is employed in organizing the workmen in cities where a union is weak. The second method is the one chiefly employed by unions in which the closed shop is well established. The extension of the union's influence is not accomplished by organizing individuals but by unionizing shops.

There are, of course, no hard and fast rules determining the way in which a local union, a district council, or a national union shall proceed in order to secure the exclusive employment of its members in a shop. Expediency is here the only practicable test of union policy, although precedent exercises some influence. The initiative in unionizing a shop, obviously, must come from one of two sources. Either a trade union takes it upon itself to see that the shop is unionized, or the employer on his own initiative requires his workmen to join the union. In the great majority of cases it is the union that acts, since it is the party chiefly interested in the extension of its control.

The simplest plan by which American trade unions secure the closed shop in an establishment is to induce the men in a shop or factory one by one to join the union until all, or practically all, have become members. During the period of unionizing no demands are made upon the employer that he discharge non-union men, nor are such demands made after the shop is organized. At first a few non-union men may be allowed to remain at work. As time goes on, established custom is likely to make the shop a completely closed

one. As the union men come to have an overwhelming majority, "moral pressure" can usually be effectively applied to secure the membership of the remaining non-union men.¹ "Moral pressure" varies from persuasion to intimidation.

The shop having thus been unionized, if the employer has never shown unfriendliness to labor organizations, the union soon comes to feel that it is securely intrenched. When new workmen are employed, there is no hesitation about asking them if they have union cards. If they prove to be non-unionists, they are told they must join the union. It is well known to them, of course, that for a considerable time the union has had practical control over the shop, although the employer has not entered into a closed-shop agreement with it. Ordinarily they apply for membership. Should they refuse to become union members, their work would probably be made very unpleasant. Not only would the unionists do all in their power to annoy such "independents," but if the foreman happened to be a union member, some pretext would usually be found for their discharge.

While all the closed-shop unions at some time or other have unionized shops in this manner, the Molders furnish the best illustration of the working of this plan. In 1891 the Molders signed the first of a series of agreements with the Stove Founders' National Defence Association. Nothing was said in these agreements concerning the employment of union men. At the time the first agreement was signed sixty per cent. of the members of the Defence Association were operating open shops, but the union soon unionized the shops so effectively that in 1906 all but two of the foundries covered by the agreements were union shops. This result was accomplished "rather by inducing the Molders to enter the union, than by bringing pressure to bear upon the employer to discharge non-union men, or to force them to join the union."²

¹ Iron Molders' Journal, August, 1880, p. 19.

² Hilbert, F. W., "Trade-Union Agreements in the Iron Molders' Union," in *Studies in American Trade Unionism*, edited by Hollander and Barnett, p. 243.

In the early nineties the United Green Glass Workers¹ were unable to secure an agreement for the closed shop with a number of manufacturers. As business was then very dull, it was decided to allow union members to work for these firms as long as union wages and hours were observed. It was hoped that the non-union workmen could be induced to become members "in a short time," and that the union's control would be made "absolute." The plan was adopted, however, only after the bitterest opposition. Even its defenders admitted that it was "of necessity a slow method of gaining control."²

A number of small unions like the Compressed Air Workers and the Cotton Mule Spinners, which deem it wise not to adopt more radical policies, make it the duty of their members "to try by all means to get employment for union members"³ and to induce non-members with whom they are working to take out union cards.⁴ Similar rules were adopted by the Longshoremen, the Potters, and the Iron, Steel and Tin Workers soon after their organization, and they are still in force,⁵ although these unions now also use other and more radical means of unionizing the shops in which their members work. Open-shop labor organizations also in this manner sometimes completely unionize a shop or a railroad. They may secure the membership of all the men at work for an employer, and yet not establish the closed shop. But most of the strong closed-shop unions have abandoned the plan of trying to secure the closed shop by gradually bringing into membership the workmen in a shop, and then relying on established custom to give them control. This method is considered too slow and uncertain. Moreover, to many unions it seems to give official sanction to the open shop if they allow their members to

¹ Known since 1895 as the Glass Bottle Blowers' Association of the United States and Canada.

² Proceedings of the Eighteenth Annual Session, 1894, p. 21.

³ Card and Picker Room Protective Association of Fall River and Vicinity, Rules, 1908, p. 26.

⁴ Compressed Air Workers, Constitution, 1902, Art. VI.

⁵ See p. 29.

work for any length of time with non-unionists.¹ The method ordinarily employed of unionizing a shop is to bring into membership as many of the men as possible, and then to demand of the employer that he recognize the union and agree thereafter to employ only union members. Should the employer refuse, a strike is ordinarily called in his shop.

This method of unionizing a shop has been favored by leading unionists for many years.² After the union has "coaxed the non-unionists long enough,"³ it is better in their opinion to bring the matter to a conclusion than to allow unionists and non-unionists to work together indefinitely. Conservative unions do not like to call such strikes until every effort has been made to bring the men into membership,⁴ but frequently trade conditions make it advisable to strike for the closed shop rather than to wait until every non-union man in the shop has been induced to join. Greater care is taken in calling strikes for the closed shop against

¹ Bricklayers and Masons, Thirty-second Annual Report of President and Secretary, 1897, p. 85.

² "The first thing the union must do is to open the shop to union men. Then, at the first opportunity to get in the shop, grasp it and try to get as many union men in that shop as possible, until they have the majority. Then ask and request the non-union men, politely, to join their ranks. If they refuse to join (which rarely happens), you will strike on them. The boss very seldom lets the majority quit, and would discharge the non-union men. The non-union men, seeing themselves out of work and being run out by union men, will naturally but timidly come one by one and ask for admission to the union" (The Cigar Makers' Journal, April, 1892, p. 7). In 1880 a writer in the Iron Molders' Journal urged that strikes should be called at once against non-union men when they were in a minority in a shop, but conceded that "where they compose about one-half the shop's crew, a great deal of moral suasion should first be resorted to" (Iron Molders' Journal, May, 1880, p. 4).

³ The Carpenter, August, 1883, p. 1.

⁴ "Many employers who are willing to have their shops unionized are not willing to appear to be forced into such a position, and many workmen can be persuaded who cannot be compelled to become unionists. No demand should be made for the unionization of a shop until all reasonable efforts have been made to secure the allegiance of every employee. It is unwise, moreover, to demand the unionizing of a shop or an industry where there is not sufficient strength to compel it. For every such demand and prior to every such demand there should be months of patient propaganda, and in this, as in every other line of trade policy, compulsion should not be used until persuasion has completely and signally failed" (Mitchell, Organized Labor, p. 284).

large employers than against smaller ones. Thus in 1893 Subordinate Union No. 4 of the Bricklayers and Masons at St. Catharines, Ontario, asked permission to work with non-union men on a job until it could secure a majority, when it was willing to strike for the closed shop. The executive board of the national union, in passing upon the petition, ruled that it was "illegal" for members of any subordinate union to "work with non-union men inside of their legal jurisdiction,"¹ although in 1891 the board had acted favorably upon a similar petition from the subordinate union at South Oil City, Pennsylvania. Here the employer whose shop it was hoped to unionize after organizing a majority of its employees was the Standard Oil Company. The subordinate union was strictly enjoined to "use good judgment" and "not to estrange" the "good will" of the company.²

No closed-shop union allows members on their own initiative to go to work in "unfair" or "scab" shops. The unions will not admit the plea that the member entered such employment in order to unionize the shop. A member who violates this rule is "scabbed." Moreover, most unions do not allow their members on their own initiative to go to work in an ordinary non-union shop. As early as 1874 the Molders provided that local unions should not permit their members to work in "scab or non-union shops" unless there were "positive hopes of reclaiming such shops."³ This regulation was highly commended by the editor of the *Iron Molders' Journal*. "Years of experience," he declared, "must have convinced all that no shop can be regained simply by allowing union men to work therein. . . . The idea of opening shops to get union men in and eventually making it a union shop is 'played out'; it has never been done, but simply because the class of men who could regain

¹ Twenty-eighth Annual Report of the President and Secretary, 1893, p. 13.

² Twenty-sixth Annual Report of the President and Secretary, 1891, p. lxxxii.

³ *Iron Molders' Journal*, October, 1874, p. 69.

the shop, will not go into it.”¹ In practically all of the closed-shop unions which have their trades well organized, union members must secure the consent of their union before going to work in any shop other than a closed one. In poorly organized trades where the open shop largely prevails such consent is rarely required.

In some cases the national unions have themselves specified in what open or non-union shops union men shall be allowed to work and when strikes shall be called for the closed shop. Thus, the Amalgamated Association of Iron, Steel and Tin Workers for many years “opened” non-union mills. Union men were from time to time encouraged to obtain work in such mills in order gradually to work out the “blacksheep” or non-union men. The mills were not allowed to remain “open” indefinitely if the attempt to unionize them failed. After a certain period the union men were called out, and the mills reverted to the “blacksheep.”² In 1904 the Association provided that not more than three mills should be “opened” at one time,³ and that union members sent into them should be allowed only ninety days in which to unionize them.⁴ A union member sent into a mill which had been “opened” was regarded as a union missionary. If he was lax in seizing opportunities to induce non-unionists to become members, he was condemned as one who had betrayed a trust.⁵ In former years many mills were unionized by this method, but since the decline in the power of the Amalgamated Association practically all aggressive tactics have been dropped.⁶

¹ Iron Molders' Journal, October, 1874, p. 69.

² Proceedings of the Twenty-fifth Annual Convention, 1900, p. 5727.

³ Proceedings of the Twenty-ninth Annual Convention, 1904, p. 7099.

⁴ Proceedings of the Twenty-ninth Annual Convention, 1904, p. 6879.

⁵ Proceedings of the Eleventh Annual Convention, 1886, pp. 1839-1840.

⁶ Some unions lay more stress on a written agreement for the closed shop than others. In practice it makes little difference whether an agreement is signed. As soon as the employer, either expressly or tacitly, recognizes the right of union members to exclusive employment, the closed shop has been secured. A union

In many shops the unions are greatly embarrassed in organizing the men by the hostility of the employer toward organized labor. Thus the employer will not hire union men to do any work. If by chance union men do get into his employ and the fact is discovered, they are discharged. Very often it is essential to a union to gain control over anti-union shops when they are of sufficient importance to prevent effective control over the trade if left unorganized. Unions are also eager to unionize such establishments because prestige is thereby given the union to a far greater extent than would be the case if a friendly shop of the same importance were unionized. Occasionally when an employer announces that he intends to run an anti-union shop, the unions address an appeal to his employees asking them to leave his service. This rarely succeeds in its object. Even if it does, unless non-union men are scarce, only temporary concern is caused the employer. A boycott may also be instituted to destroy the "unfair" employer's business. If these methods fail or if they do not appeal to a union as likely to be effective, the plan usually adopted, if the shop is to be unionized, is to allow union members to work there "under cover," that is, without the employer's knowing that they are unionists.

When a union man works "under cover," he does so with the express permission of his organization. Very often when he applies for employment at an anti-union shop he gives an assumed name, or if he gives his real name, it is frequently after his name has been erased from the regular union roster and placed upon a "secret list."¹ Once employed, he quietly begins to gather recruits among those workmen who appear most amenable to persuasion. Secrecy is enjoined upon all the new members he obtains. Other unionists are instructed to apply for such vacancies as occur in the shop. Thus by the secret introduction of union men into the shop from the outside and by patient propaganda

in any event governs its members through its own rules (*Amalgamated Sheet Metal Workers' Journal*, June, 1908, p. 215).

¹ Buchanan, *The Story of a Labor Agitator*, pp. 39-41.

among the non-union employees the work of unionizing goes on.

From time to time reports of progress are made to the local union or district council. In some cases it may be months or even years before the shop is sufficiently organized to justify any open action. Finally, when enough members have been obtained to promise a successful issue, the union suddenly reveals to the employer the fact that many of his men are unionists and demands that he make the shop a closed one. If he complies, the non-unionists are given the alternative of joining the union or seeking other jobs. Very often the fact that he has been secretly ensnared incenses the employer, and the union has to strike. Although the employer may defeat the strike, he can never feel sure that union men are not again at work in his shop trying to organize it. He may require all his employees to sign an "iron-clad" agreement not to affiliate themselves with any labor union while in his service, but he knows that in spite of every precaution union men may be working in his shop. There is a wide-spread feeling among the unionists that it is legitimate in industrial warfare to conceal the fact that they are unionists. In this spirit many union men are willing to sign an "iron-clad" agreement, although they never intend to keep it.

In the early days of American trade unionism working "under cover" was a much more common practice than at present. Formerly the unions frequently planned by this means to open shops to unionists rather than to close them to non-unionists, but during the past twenty years practically all such movements have been instituted with the aim of establishing the closed shop. Consequently when it is found impossible to gain sufficient recruits in an anti-union shop to warrant a strike, the union members employed therein are required to seek employment elsewhere.¹ Some unions would be gratified if their employers could be led to agree to maintain open shops. A very large part of the

¹ Lithographers, Constitution, 1901, Constitution of Subordinate Associations, Art. IX, Sec. 3.

membership of the Commercial Telegraphers, for example, is enrolled on a "secret list."

Local unions are ordinarily allowed to send men into anti-union shops when they see fit, but in a few unions, as for example the Lithographers and the Plumbers, the matter is regulated by national rules. - In a few unions the plan of concealing the membership of unionists has even been used on a national scale. Thus, in 1899 the Flint Glass Workers undertook to unionize the trade by sending members "under cover" into all non-union plants. Some of the factories were more quickly organized than others, and arrangements were made that the unions should withhold their demands until all the factories were in position to act. On a date fixed by the national officers the proprietors of all the factories were apprised of the fact that the union had control and that strikes would be called unless it was recognized.¹ In 1902 the president of the union reported that recourse had again been had to working "under cover" in order to establish the closed shop in the factories of the United States Glass Company.²

A second method of introducing the closed shop into the establishments of anti-union employers is to make concessions to the men in the shop in order to induce them to join the union in a body. Such concessions may take the form of an "amnesty" for past offenses against the union or a reduction in the initiation fee. Under an "amnesty" workmen are admitted to a union "without regard to their past record," and without their being subject to "fines, pains or penalties" which have been imposed upon them. On certain occasions national and local unions have proclaimed "general amnesties" to all "unfair" men. Thus in 1868 the Printers provided for a "general amnesty" for three months.³ At present, however, the use of "amnesties" is more restricted. The executive council of the Typo-

¹ Reports of President, Secretary, Treasurer and Organizer, 1899, p. 3.

² Proceedings of the Twenty-fourth Convention, 1902, p. 60.

³ Barnett, p. 308.

graphical Union, for instance, has power to declare an "amnesty" only within the jurisdiction of a particular local union. Such amnesties are rarely declared except when a local union is about to make an attempt to unionize an establishment.

An "amnesty" is an inducement to join only to "scabs" and other persons who have incurred the displeasure of the union, but a reduction in the initiation fee is an inducement to the ordinary non-unionist, particularly in those unions where the initiation fee is high. Among the Table Knife Grinders, the Meat Cutters and Butcher Workmen, and some other unions it is not uncommon for reductions to be made in the initiation fee if all the non-unionists in a shop join simultaneously. In 1900 the Table Knife Grinders voted that cards be granted to workmen in shops "in a body" for one dollar per man and fifty cents per boy.¹ The regular initiation fee at the time was twenty-five dollars.

Ordinarily an "amnesty" is granted to all the men in a shop, but occasionally some "scab" may be so objectionable to the union that he will be excepted. No union makes concessions to a body of "unfair" men with the intention merely of opening the shop to unionists. If a minority hold out and refuse to join the union, or if some are excepted from the amnesty, such workmen will be required to seek employment elsewhere. The policy of the unions is similar where a reduction in initiation fees is offered to the men in a shop. If the latter do not accept the union's proposition "in a body" or by a substantial majority, the terms are withdrawn. The reduction in the fee is the price which the union pays for a closed shop. Usually financial concessions are not made to the employees unless the shop is an important one. Small non-union shops are not considered dangerous to the welfare of the union except in trades where the small shop is the prevailing type of business unit. Weak unions are more likely than strong ones to make concessions to non-members, since they cannot so easily bring pressure to bear on workmen to join.

¹ Report of the Fifteenth Convention, 1900, p. 14.

So far we have considered the establishment of the closed shop as brought about by organizing the workmen in a shop. There is also another way of securing the closed shop; that is, by inducing the employer to unionize his shop. In many cases employers have signed closed-shop agreements when there was not a single union man at work in their shop. All unions of any importance maintain a corps of business agents and organizers one of whose chief duties is to persuade employers that it is advantageous to run union shops. Local business agents of the unions, in particular, are supposed to be constantly on the alert to secure the "signatures of employers to contracts and agreements where such exist and have not been signed by all said employers and . . . to endeavor to unionize all shops not thoroughly unionized."¹ Special committees are also frequently appointed to treat with an employer concerning the establishment of the closed shop.

The unions of the building trades, perhaps, have made the most frequent use of this method. In many industries workmen remain with one employer for months or even years. While there are some who work in the shop only for a brief period, the personnel of the shop changes very little during the period in which a union can expect to unionize it. In the building trades, on the contrary, the changes in the personnel of the shop are very rapid. While most contractors employ certain workmen steadily as far as possible, it is rarely the case that the "gang" working for a contractor on one building will be the same as that on another building constructed immediately thereafter. A job in the building trades must be union when it begins, or it is not likely to be union at all. Consequently the building trades unions often go to a contractor to whom work has been let and ask that he conduct the job on the closed-shop plan.

To aid them in securing the immediate recognition of their demands from contractors the unions urge prospective builders to insert in their specifications a clause requiring

¹ Meat Cutters and Butcher Workmen, Constitution, 1900, Constitution and By-Laws for the Government of Local Unions, Sec. 10.

bidders to agree to hire only union labor in case contracts are awarded them.¹ If a building is to be erected for business purposes, threats are often made that a boycott will be declared against the owner unless he gives the work to a union contractor. By political influence the building trades unions have also frequently succeeded in getting city councils and school boards to provide that union men only shall be given employment in the construction or repair of municipal buildings.² All unions make strong efforts to secure the exclusive employment of union men in a new mill or factory. The Amalgamated Window Glass Workers, for example, for some time have made provision that no member shall go to work in a factory until the proprietor has signed an agreement.³

While the majority of closed shops are established on the initiative of the union, it sometimes happens that employers of their own accord decide to hire union men exclusively and notify the union and their employees to that effect. The employer may be a union sympathizer, or he may consider it advisable from a business standpoint to run a union shop. Many employers who have formerly been union men are heartily in sympathy with the unions. On the other hand, other employers are led to establish closed shops by business considerations, as for example the desirability of using the label. Certain employers have petitioned again and again that their factories be taken over by a union so that they may be awarded the use of its label.⁴ Such occurrences lead the unions to believe that the label is the "most potent weapon . . . to-day for securing the closed shop."⁵

¹ *The Carpenter*, May, 1898, p. 6.

² *Official Journal of the Brotherhood of Painters, Decorators and Paperhangers of America*, December, 1900, p. 6; *The Carpenter*, February, 1900, p. 10; *Painters' Journal*, August, 1899, p. 4. Similarly, city councils have provided for the exclusive employment of union men as teamsters, steam engineers, and street cleaners.

³ *By-Laws*, 1904, Art. I, Sec. 9.

⁴ *United Garment Workers*, *The Weekly Bulletin*, September 9, 1903, p. 4. The use of the label is sometimes withheld from shops because of improper sanitary conditions, and so on, and not merely because they do not employ all union men.

⁵ *Furriers' Journal*, April, 1908, pp. 13-14.

Open-shop employers also recognize that in some industries the label is "the key locking the door of the closed shop."¹

Members of certain employers' associations which have closed-shop agreements with the unions are required to maintain closed shops under penalty of expulsion. If a non-union or open-shop employer joins such an association, he is compelled to see that all of his work people join the proper union.² Local employers' associations which have entered into "exclusive" agreements with trade unions require all their members to run closed shops.³ Some agreements for the closed shop have also been made by district and national associations of employers, in which the unions did not in return agree to work only for the members of the association. Notable examples of such agreements have been those between the Longshoremen and the vessel owners' associations of the Great Lakes prior to 1909 and the agreement between the Coopers and the Machine Cooperage Employers' Association in 1905.⁴ The greater part of the agreements made between trade unions and national, district, or local employers' associations have not specified that the closed shop shall prevail in all establishments represented in the associations. Thus, in the agreements made by the Iron Molders with the Stove Founders' National Defence Association it was provided for many years that employers who were running union shops at the time the agreements were signed should continue to do so, but that proprietors of open and non-union foundries were not to be required to run closed shops.⁵

"Closed-shop movements" are usually undertaken by the unions during prosperous seasons, or in years when the demand for men is active. At such times the union can readily place in employment any men who are thrown out of work by strikes to unionize non-union plants. The unions

¹ The Open Shop, September, 1905, p. 416.

² Carpenters and Builders' Association of Chicago, Constitution and By-Laws and Membership List, 1897, By-Laws, Sec. 23.

³ See p. 61.

⁴ The Elevator Constructor, February, 1905, p. 16.

⁵ Iron Molders' Journal, May, 1900, p. 1.

at such times are quick to demand the closed shop as soon as they have a few men in a plant. In less prosperous seasons the unions are far less active and much slower in calling strikes to establish the union shop, since the men thus thrown out of work are a burden to the union. If the situation becomes very bad, not only will union members be allowed to work under open-shop conditions but they may even be sent into anti-union shops "under cover" to work for non-union wages.

CHAPTER VII.

THE MECHANISM OF CLOSED-SHOP ENFORCEMENT.

Two different methods of enforcing the closed shop after it has been established have been developed by the American trade unions. They are known respectively as the "card system" and the "check-off system." The former is much the older and more widely used of the two, and it will be considered first. In the final part of this chapter the methods used by trade unions to control the employment of their members in non-union shops will be briefly discussed.

The card system.—In 1807 a proposal was made in the Philadelphia Typographical Society that membership cards be issued to affiliated journeymen.¹ This was probably the first occasion on which the use of union cards was suggested in America. The resolution was defeated, but not long afterwards many of the local typographical societies began to issue cards to members who wished to travel. This was done because all of the societies strongly objected to working with "strange" journeymen. In local unions in other trades, membership cards were first adopted chiefly for local use, and were first used in the larger cities where it was impracticable for each journeyman to be acquainted with all his fellow-members. By about 1840 the membership card had come into general use.

Since 1890 the membership card has been largely superseded for local use by the "working card," which differs from the membership card in that it is periodically renewed on the payment of dues.² Various names are given to the "working card" in different unions, such for example as "due book," "due card," "pass card," and "register check." In addition to the working cards of single unions two other

¹ Barnett, p. 284, n.

² The working card was first used by the Typographical Union as early as 1860 (*Ibid.*, p. 295, n.).

kinds are in use. The "interchangeable working card" is issued by two unions which claim jurisdiction over the same work. The "allied trades card" is issued by combinations of unions which together enforce a joint closed shop. At least as early as 1892 the allied trades card was in use among local building trades councils.¹

There is general similarity in form among all working cards. Upon them are inscribed the name of the issuing union, the name of the member to whom the card is granted, and the length of time for which the card is to run. The signature of a union official and, in many cases, the seal of the union are also attached. Cards are usually issued quarterly, though some unions have monthly cards, while others have semi-annual or annual cards. In many unions, as for example the Plumbers,² the color of the card is changed each month or quarter. The due book or due card is a form of the working card designed to save the expense of issuing new cards periodically, and also to afford an accounting check on the financial officers of local unions. When dues are paid, a stamp resembling in appearance an ordinary postage stamp is affixed in a designated space in the book or on the card.³

The financial secretaries of local unions usually issue working cards to members on the last meeting night in the month or quarter. Occasionally cards will be given to a person who is in arrears for dues,⁴ but as a rule they are not issued to any one until all his dues, fines, and assessments have been paid. When members are admitted to the union, they are given working cards immediately. Sometimes they are allowed to pay their initiation fees and advance dues in installments. Interchangeable working cards are obtainable only upon payment of dues in the proper union. The allied trades card, as already noted, cannot be

¹ The Painter, February, 1892, p. 4.

² Constitution, 1897, Art. VIII, Sec. 2.

³ Brewery Workmen, Constitution, 1903, Art. XIII, Secs. 1, 2.

⁴ This is done frequently during dull seasons. See Flint Glass Workers, Proceedings of the First Biennial and the Twenty-third Convention, 1901, p. 58.

secured until a workman obtains a membership or working card in the union of his trade.¹ All unions forbid members to lend or alter working cards with intent to defraud. Certain restrictions are also imposed upon the granting of certificates to replace cards reported as lost or stolen.

Instead of a working card, the Marine Engineers, the Hotel and Restaurant Employes and Bartenders, the Street and Electric Railway Employes, and the Shingle Weavers use a button, which is displayed on the coat or cap. Local unions of the Teamsters also have frequently used buttons. The United Mine Workers in 1902 adopted a "working button" in certain districts where the operators had forbidden the union to examine working cards upon their premises. At one time the Denver² and Philadelphia³ building trades councils issued both a card and a button. A proposal to substitute a button for the working card was defeated at the convention of the Iron, Steel and Tin Workers in 1905.⁴ Working buttons, like working cards, are issued monthly, as in the case of the Shingle Weavers; quarterly, as in the case of the United Mine Workers; or yearly, as is done by the Marine Engineers.⁵ The Mine Workers distinguish the different quarters of the year by different numbers and different colors on the buttons. The color or size of the button may also be varied to indicate to what branch of a union a member belongs. This is done by the Hotel and Restaurant Employes and Bartenders.⁶

The button is defective as a device of identification since it does not contain the owner's name. If it falls into the hands of a non-union man, he can therefore pass himself off as a unionist more easily than with a union card. The chief advantage of the button, from the union point of view, is that it is a more patent mark of identification. A non-

¹ See p. 100.

² The Labor Compendium, August, 1905, p. 10.

³ Ibid., December, 1905, p. 3.

⁴ Journal of the Thirtieth Annual Session, 1905, p. 7439.

⁵ The Marine Engineers require dues to be paid in advance for the entire year before the button is issued.

⁶ Constitution, 1901, Art. XIII, Sec. 2.

unionist, without a button, is very conspicuous in a shop under union control, and there is no chance of his being overlooked. Besides, in some unions like the Hotel and Restaurant Employes and Bartenders the button serves partly as a label to indicate to customers that union labor is employed. In the same way, also, it enables persons friendly to a union to discriminate against non-members. Union teamsters will at once give the right of way to a street-car motorman with a union button on his cap, but they will delay as much as possible if the motorman wears no button. In cities like Chicago where traffic is congested effective blockades can be established very quickly without appearing intentional.

Besides requiring that their members shall carry a card or a button to distinguish them from non-unionists, the unions provide for the inspection of cards and buttons. In practically all of the older closed-shop unions it was originally the duty of each member to ascertain for himself whether his fellow-workmen were unionists.¹ As long as shops employed a small number of men this was not an insuperable task, but with the increase in the number of employees in the shop this method of inspection in most unions has become impracticable.

In two national unions, the Seamen² and the Musicians, members are still required to ascertain whether their fellow-workmen are unionists in good standing. The local secretaries of the Seamen ordinarily know whether there will be non-union men in the crew of a vessel on which it is proposed to ship union members. The burden on members is thus somewhat lightened. The Musicians make one exception to their rule. Local leaders of theatre orchestras are required to ask for the cards of travelling members performing at theatres.³ The Hatters have a rule of long

¹ Massillon Miners' Association, Constitution, 1864, p. 9, Sec. 28. See also rules of the Boston Journeymen Bootmakers of 1840 in *Commonwealth v. Hunt*, Thatcher's Criminal Cases, 609.

² Lake Seamen, Constitution, 1907, By-Laws, Sec. 15.

³ Constitution, 1908, By-Laws, Art. VI, Sec. 19, B. In his report for 1908-1909 the secretary of the Musicians complained that the

standing that a union journeyman, before introducing to an employer a hatter who applies for work, must examine his register check or travelling card.¹ A few other unions, such as the Barbers, place the responsibility for the inspection of cards or buttons in the smaller shops upon all union members at work there.

Most unions, however, have delegated the duty of card inspection to a shop officer, known usually as the "shop steward," or to a "shop committee."² In the larger cities many unions employ a business agent, "walking delegate," or "patrolman," one of whose duties is to discover any non-union men at work in his district. In some cases the business agent takes over all the work of card inspection from the shop stewards or committees, but more often he acts in conjunction with them. In those districts of the United Mine Workers in which cards are used they are inspected by the "checkweighman."³ Allied trades councils often employ a business agent, one of whose duties it is to inspect or to supervise the inspection of the allied trades working cards.

examination given to cards of travelling musicians was often of the "flimsiest character."

¹National Trade Association of Hat Finishers of the United States of America, Constitution, 1863, Art. IX. When a hatter applies for work in a union factory, he is not allowed to go to the foreman or employer. He must hand his travelling card or register check to one of the journeymen in the shop. The latter then presents the card to the employer with the remark, "Journeyman on turn." This means that the owner of the card is seeking employment. The employer may then "shop," that is, hire, the applicant or not as he sees fit.

²The steward has different names in different unions. Some of these are "local delegate," "shop delegate," "shop's delegate," "shop collector," "shop secretary," "shop monitor," "card man," "chapel chairman," "job steward," and "preceptor." The committee is variously known as the "lodge," "shop," "mill," or "pit committee."

Shop stewards and committees are elected in some cases by the members at work in the shop and in others by the local union. In the building trades the first man to go on a job is usually required to act temporarily as the steward. Some unions, as for example the Bricklayers and Masons, provide that when members go to work on a job and find that it has no steward, they shall prefer charges against the members hitherto employed there.

³The checkweighman is a miner in the pay of the union who stands at the pit entrance and sees that coal is properly weighed and credited.

When new employees come to work in a closed shop, the steward or a member of the shop committee, as the case may be, asks to see their cards. This request is made either immediately after their employment begins or within a very short time. An examination of the cards or buttons of all the men in the shop is also made at stated intervals, the first working-day of each month or quarter being the day generally selected.¹ In those unions where the steward is also a collector of dues he makes his rounds on pay days. Closed-shop agreements often specify that the authorized officers of a union while inspecting cards shall not be interfered with by the employer.² Union members who refuse to exhibit their cards or fail to show proper respect to the steward or committee while performing this duty are generally subject to a fine.³ A steward, business agent, or committee that fails to obey the rules regulating card inspection is subject to a similar penalty.⁴ When a card or button has been passed as valid, it is in nearly all unions restored to the owner, who is expected to carry it at all times. In the Hatters, however, as soon as a union journeyman is "shopped" he must deposit his register check with the shop steward.⁵ The United Mine Workers also have a rule in some of the bituminous coal fields that members shall leave their cards in the possession of the checkweighman.⁶ The cards are returned when their owners wish to obtain employment elsewhere.

There is at least one instance in the early days of American trade unionism of the performance of the combined

¹In the anthracite coal mines controlled by the Mine Workers this day is known as "button day." In some unions, like the Stereotypers and Electrotypers, stewards or business agents may examine the cards in a shop whenever they see fit.

²Bricklayers and Masons, Thirty-fifth Annual Report of President and Secretary, 1900, p. 4.

³Elevator Constructors, Local Union No. 2, Constitution, 1905, Art. XXIII, Sec. 5.

⁴Bricklayers and Masons, Forty-first Annual Report of President and Secretary, 1906, p. 37; United Garment Workers, Proceedings of the Ninth Annual Convention, 1900, p. 7.

⁵Journal of the United Hatters, February, 1903, p. 12.

⁶District No. 8, Constitution, 1903, Art. X, Sec. 2.

duties to shop steward and business agent by a committee. The Philadelphia Cordwainers in 1806 appointed a "tramping committee" whose business it was to "watch the Jers [that is, journeymen] that they did not scab it. They were to go their rounds every day to see that the Jers were honest to the cause." Service on the committee was obligatory, and no compensation was given for it. It soon came about, however, that "the body thought it requisite to take one man instead of three for the tramping committee and they paid him; they took one Nelson for the business."¹ In all likelihood Nelson was the first American "walking delegate." The Pittsburgh Cordwainers in 1815 also had "tramping Committees . . . go round and inspect the shops . . . to see that none were working unlawfully."² At Hudson, New York, the same policy was pursued by the Cordwainers in 1836.³ Again on March 3, 1856, the Cigar Makers' Association of Maryland appointed a committee of five "to go round to the shops to see if any of the cigar makers are working against the rules of the association."⁴

The earliest use in any trade union of the term "steward" which we have found was in 1837 in the Journeymen Black and White-Smiths' Beneficial Society of the City and County of Philadelphia. This organization had a steward in each shop whose duty it was to investigate and report on the cases of workmen who applied for relief out of the general funds.⁵ There is no evidence that they were instrumental in enforcing the closed shop, but in 1857 we find that local unions of the Stone Cutters had "shop stewards" who were employed in this manner.⁶

There are also some unions which impose the duty of inspecting working cards upon the employer or his representatives. The most important organizations in this group

¹ Commons and Gilmore, Vol. III, pp. 75-76.

² Ibid., Vol. IV, pp. 29, 34.

³ Ibid., p. 280.

⁴ MS. Minutes.

⁵ The Black and White-Smiths' Society v. Van Dyke, 2 Wharton's Pa. Repts., 309.

⁶ Monthly Circular, August, 1857, p. 3.

are the Plumbers, the Horseshoers, the Musicians, the Marine Engineers, the Printing Pressmen, and the Theatrical Stage Employees. The first three unions sometimes make the employer responsible for employing non-unionists when unionists are available.¹ If he hires non-unionists he is fined.² His responsibility ceases when union men have been hired. He is not expected to see that they keep in good standing. In "one-man shops" in all trades the employer is required to ascertain whether his "extra help" is union, and he must also see that his apprentices or helpers hold cards if they are required to do so.³

The Printing Pressmen require the foreman of a shop to hire none but union men when they are available.⁴ He must ask applicants for work whether they are union men, and demand to see their cards. For violation of this rule the foreman is fined. The other unions of the printing trades imitate the Pressmen to some degree, but they are by no means so severe with foremen who fail in their duty. The Marine Engineers provide that members sailing as chief engineers must employ "brother engineers" as assistants if possible.⁵ Foremen in some unions are required to inspect cards, even after the men have been hired. As noted above, the Musicians authorize local leaders of theatre orchestras to call for the cards of all travelling musicians before beginning an engagement with them.⁶ The Theatrical Stage Employees provide that the master machinist shall demand to see the cards of all persons coming to work in a theatre as

¹This is done by the Plumbers and Horseshoers only when the employer is a member of an association with which an "exclusive" agreement has been signed.

²International Horseshoers' Monthly Magazine, January, 1908, p. 27; Plumbers, Gas and Steam Fitters' Official Journal, May, 1899, p. 13; Musicians, Local Union No. 161, Washington, D. C., Constitution, n. d., Art. XX, Sec. 2.

³Frequently an employer, to secure himself against any difficulty with the union, voluntarily examines the cards of all applicants for work. See Journal of the United Hatters, December 1, 1898, p. 2.

⁴Constitution, 1909, By-Laws, Art. IV, Sec. 1.

⁵Constitution, 1904, Constitution for Subordinate Associations, Art. IX, Sec. 3.

⁶See p. 140.

stage employees.¹ Local unions have sometimes required foremen to make a regular examination of cards. Thus the Bricklayers' Protective Association of Philadelphia in 1885 made it "the duty of the foreman or oldest hand on each job to examine the cards every Tuesday morning of the different members working with him and allow no member to work unless he is in good standing."² Most unions, however, do not desire to trust the employer or a foreman with the enforcement of union regulations.³

Despite the elaborate machinery which the unions have developed for this purpose, the enforcement of the closed shop depends largely on the vigilance of individual unionists. Foremen and employers often neglect to ask for an applicant's card, and in many shops stewards, business agents, and shop committees become careless in the performance of their duties. In many strong unions members are urged to request to see the cards of their fellow-employees and to display their own cards in turn.⁴ As soon as a non-unionist is discovered at work in a closed shop the fact is reported to the local union. He is asked to make application for union membership and, perhaps, to deposit with the union a part of the initiation fee.⁵ If he does as requested, the non-unionist is then ordinarily given a "working-permit"⁶ which entitles him to work in that shop or in any other union shop until his application for membership has been acted upon. In some unions the permit must be secured from the

¹ Constitution, 1898, By-Laws, Art. I, Sec. 8.

² Constitution, By-Laws and Rules of Order, 1885, By-Laws, Art. VI, Sec. 3.

³ In 1898 the Potters indefinitely postponed the consideration of a resolution which provided that "all bench bosses, foremen and others in authority" should see that all men under their supervision held union cards (Proceedings of the Eighth Annual Convention, 1898, p. 32).

⁴ The Carpenter, August, 1901, p. 3; Electrical Workers, Constitution, 1905, Art. XXVI, Sec. 15.

⁵ Painters' Journal, June, 1893, p. 2. In case a workman does not have the money to make an advance payment, practically all unions will accept an order on the employer for the necessary amount. If his application for admission to membership is refused, whatever he has paid is refunded.

⁶ A "writing" is the term used by the Cloth Hat and Cap Makers.

business agent before employment begins.¹ Similarly, when union members are in arrears for dues² or when travelling members do not have their cards,³ they must either secure a permit or make a deposit with the union.

When non-unionists refuse to apply for membership in the union or when members in arrears refuse to make payment, a request for their discharge is made to the foreman or to the employer. Some unions, as for example the Spinners and the Tin Plate Workers,⁴ go no further than this, and do not strike if the employer refuses. If the employer has signed a closed-shop agreement with a union, less difficulty is ordinarily experienced in securing the discharge. When an employer has given a bond to employ union men only, he is still less inclined to deny the union's request.⁵ The strike, however, is the weapon on which the enforcement of the card system depends. Some unions, as for example the Pattern Makers, "pull" their members out of a shop one by one when it is found impossible to secure the discharge of a non-unionist. In the building trades unions, on the other hand, business agents and even shop stewards are authorized to call a strike immediately if a non-union man is found at work on a union job.⁶ This policy is partly due to the transitory nature of building operations. The great mass of unions, on the other hand, will not allow strikes to be called against non-union men unless, as is required in other strikes, they have the sanction of the local or national union.

¹ The International Horseshoers' Monthly Magazine, July, 1902, p. 18.

The Granite Cutters' Journal, September, 1902, p. 7.

² Iron Molders' Journal, December, 1894, p. 3.

⁴ Proceedings of the Fifth Convention, 1903, p. 299; Proceedings of the Eighth Convention, 1906, pp. 536, 579.

⁵ In some unions such bonds are frequently given. See, for instance, The Painter, August, 1889, p. 1.

⁶ Bricklayers and Masons, Proceedings of the Twenty-fifth Annual Convention, 1891, p. 89; New York Building Trades Council, Constitution and By-Laws, 1910, Sec. 37. In the Stone Cutters the shop steward has authority to "rap on his chisel" and call an immediate strike against a non-union man.

*The check-off system.*¹—The check-off system has been used almost exclusively in the two industries of bituminous coal-mining and window glass manufacture. From the union standpoint the check-off system works with much less friction than the card system. The latter, as has been indicated, involves the issue of cards or buttons, their inspection by union representatives, appeals to employers to discharge workmen, and finally, the calling of strikes. Under the check-off system almost the entire burden of enforcing the closed shop is thrown upon the employer. He is required to deduct dues, fines, and assessments from the wages of his men.

In the bituminous coal fields of Ohio, Indiana, Illinois, Iowa, Kansas, Arkansas, Missouri, Texas, Indian Territory, Wyoming, and Montana the United Mine Workers have signed numerous agreements with mine operators in which it is specified that the latter shall, upon receipt of "proper individual or collective continuous order," deduct dues and other assessments which the union authorizes.² In some agreements, as for example that made by District No. 11 with the Indiana Bituminous Coal Operators for 1906-1908, it was provided that deductions shall be made from the wages only of such miners or mine laborers as "give their consent in writing" or furnish "properly signed authority."³ As such an arrangement does not preclude the open shop, the Mine Workers endeavor, wherever possible, to obtain agreements in which the "check-off" is applied to all persons in a mine over whom the union claims jurisdic-

¹ The section here published, relating to the check-off system was published substantially in its present form, in the *Johns Hopkins Circular*, April, 1910. In the *Quarterly Journal of Economics* for August, 1911, Mr. F. A. King has an interesting account of the "Check-Off System and the Closed Shop among the United Mine Workers," which, unfortunately, appeared too late to be of service in the present connection.

² State Agreement between the Illinois Coal Operators' Association and the United Mine Workers of America, District No. 12, 1908-1910, p. 24.

³ Terre Haute Agreement between Indiana Bituminous Coal Operators and United Mine Workers of America, District No. 11, 1906-1908, p. 20.

tion. In order to protect the operators from suits by individual miners to recover the amounts deducted from their wages the union agrees to furnish, on demand, a collective order authorizing deductions to be made.¹

In some agreements certain restrictions are placed upon the collection of fines imposed by a local union. Thus the Illinois State Agreement for 1908-1910 specifies that "in case a fine is imposed, the propriety of which is questioned, the amount of the fine shall be withheld by the operator until the question has been taken up for adjustment and a decision has been reached." Other agreements provide that no fine shall be deducted from wages unless it has been ordered by a two-thirds vote of the local union.² Exceptions of this kind are intended to prevent the operators from being forced to endorse palpably unfair treatment of a miner by the local union. The agreement of District 5 for 1906-1908 exempts the operators from making deductions for initiation fees "unless locally agreed between the Operators and Miners."³

In some districts a maximum amount of "check-off" is provided for, the exact amount being subject to local adjustment.⁴ The agreements usually provide also that before the operator pays anything to the union, he shall have the right to abstract from the wages of all employees sums due him for rent, tools, smithing, powder, and so forth. He is also authorized to deduct assessments for accident and death benefit funds and the money due from each man toward the salary of the checkweighman.⁵ After the operator has made

¹ Agreement and Scale of Wages between Operators and Miners, United Mine Workers of America, District 21, in the Bituminous Mines of Texas, 1906-1908, Sec. 6.

² Official Mining Scale of Association of Pittsburgh Vein Operators of Ohio for their Mines in Belmont, Harrison and Jefferson Counties, Ohio, and the United Mine Workers of America, 1904-1906, Rule 9, pp. 11-12.

³ Pittsburgh District No. 5, Pennsylvania, Scales and Constitution, 1906-1908, p. 11.

⁴ Agreement between the Members of the Iowa Coal Operators' Association and the Members of District No. 13, United Mine Workers of America, 1904-1906, Resolution No. 15, p. 32.

⁵ Pittsburgh District No. 5, Pennsylvania, Scales and Constitution, 1906-1908, pp. 11-12.

the deductions from wages, he is required to send to the union a statement "showing separately the amount of dues, assessments, fines and initiations collected" and the names of those employees whose dues, and so on, for any reason remain uncollected.⁴ If the union wishes, he must also afford it the means of ascertaining the correctness of his representations.²

The early "rules for working" of the Window Glass Workers, Local Assembly 300, Knights of Labor, provided merely that manufacturers whose factories were organized should "deduct money from members' wages, when requested to do so by the chief preceptor."³ Certainly as early as 1899 provision was made that manufacturers were to deduct from the earnings "of all members" a specified percentage to be paid to the organization as dues.⁴ A statement was also to be furnished by them showing from whom such collections had been made. While this arrangement, literally interpreted, applied only to members of Local Assembly 300, in reality it covered all the workers in an organized establishment, since no one was allowed to obtain employment therein without a "clearance card" issued by the preceptor of the factory where he had last worked. To obtain such a card a glass worker had to be a Knight in good standing. The "rules for working" also provided that if any employer overpaid a glass worker or failed "to deduct and forward" the amount due the Assembly, he was to be "held liable for payment of the same." His action was also to be considered an infraction of the "working scale," and members of the Assembly, if they chose, could then cease work without giving him the usual seven days' notice.⁵

¹ Joint Interstate Agreement between the Southwestern Interstate Coal Operators' Association and the United Mine Workers of America, 1904-1906, p. 9.

² The check-off system prevails widely in the coal-mining unions of southern Wales. It is also found among the unions in the English manufactured iron trade (Webb, *Industrial Democracy*, p. 210).

³ Scale of Wages and Rules for Working, for Blast ending June 30, 1894.

⁴ *Ibid.*, for Blast ending June 15, 1900, Sec. 33.

⁵ *Ibid.*,

In 1901 each member of the Assembly was required before going to work "to sign and place on file with each manufacturer" an agreement authorizing the latter to deduct dues and so on, from his wages.¹ Finally, in 1905, it was provided that all window glass workers accepting employment under the union scale must "agree to and authorize the manufacturer, company, firm or their agents to deduct one per cent. of all their earnings," and in addition "waive all legal rights to recover money obtained from wages." At each factory the manager or his representative was compelled to acquaint all workmen with the above requirement before giving them employment. If workmen were hired who refused to assent to deduction from their wages, the firm or company employing them was required to pay their dues, if need be, out of its own pocket.² Similar rules are in force at the present time, but have been largely ineffective since 1905 owing to the weakened condition of the Assembly.

For a number of years the Amalgamated Window Glass Workers of America³ and the Window Glass Cutters and Flatteners' Association⁴ have also required employers to deduct the dues of members from wages. Their rules have been very similar to those of Local Assembly 300. No one of these three organizations, it may be noted, has ever used the term "check-off" to describe its method of collecting dues. The expression originated with the Mine Workers, and they appear to be the only union using it.

In a few other trades the check-off has been adopted by local unions. In Baltimore, for example, certain clothing manufacturers have been accustomed to deduct union dues from the wages of employees eligible to membership in the

¹ Scale of Wages and Rules for Working for Blast ending June 30, 1901, Sec. 35.

² *Ibid.*, for the Blast of 1905 and 1906, Sec. 28.

³ Window Glass Workers' Association of America, Scale of Wages and Rules for Working, for Blast 1902-1903, Sec. 25. In 1904 this union became the "Amalgamated Window Glass Workers of America."

⁴ Scale of Wages and Rules for Working for Blast of 1900-1901, Sec. 26. See also Scales for 1905-1906, 1906-1907, and February, 1909-September, 1909.

United Garment Workers. These employers are anxious to keep their shops union in order to have the use of the label, and it has been found difficult to do this by the card system, since a large percentage of the employees are women who take little interest in union matters. In 1902 the union iron workers at Birmingham, Alabama, went on strike to compel the employers "to deduct from the pay of the men their dues and hand them over to the union officials."¹

The limited use of the check-off system can be explained on two grounds. First, the unions desire to remain as self-reliant as possible, and it seems a confession of weakness for them to ask employers to assist in collecting dues. It is also thought that if a union comes to depend on employers for keeping up its organization and expects them, as it were, to be its "walking delegates," the interest of its members in union affairs will gradually diminish. Consequently, if the employers ever determine to run open or non-union shops, the union will be less able to defeat the movement. Secondly, employers are ordinarily disinclined to assist actively in any plan to compel their employees to join a labor organization.² The check-off system among United Mine Workers has, however, not been opposed in most of the districts by the operators. Under the card system it frequently happened on "card day" that workmen who held important posts about a mine had neglected to secure a card. This sometimes necessitated the tying up of a whole shaft. Because of such difficulties the operators felt that it would be more economical for them to collect dues for the union.

The Mine Workers themselves regard the check-off system as a useful arrangement. In a union composed of workmen of so many nationalities there are many difficulties in

¹ Bulletin of the National Metal Trades Association, November, 1902, p. 181.

² "Trade unionism demands that our cashiers . . . collect from its members in our employ the amount due the unions and the sum thus collected is paid into their treasury to further encroach upon our business. That does not sound a bit good, does it?" (Address of Mr. James W. Van Cleave before Citizens' Industrial Association of America, in Proceedings of the Second Annual Convention, 1904, p. 23).

the working of the card system. The unions in the window glass industry also seem to have been well satisfied with the plan of having employers deduct dues. But at present there appears to be little desire among unions to substitute the check-off for the card system.

Union supervision over non-union shops.—Trade unions not only endeavor to keep non-union men from working in shops under union control but they also take measures to keep union men out of non-union shops. Business agents, in particular, are expected to discover whether union members are working for "unfair" or non-union employers. When it has been shown that a member is guilty of such misconduct, he is subject to fine, suspension, or even expulsion, but ordinarily he is fined for the first offense. If he violates the rule again, the fine is increased, and on the third offense he is expelled. Some unions, however, will "scab" a member the first time he works in a non-union shop.¹ Often a union is forced to relax its rules and allow members, under certain conditions, to work for a non-union employer. In some cases a mere vote of the union declares certain non-union shops "open." In other unions, members must personally obtain permission from a local union, district council,² or the national union.³ When they have obtained consent to work in non-union shops, they are often given a written permit.⁴ This serves them as evidence to rebut any charge of "scabbing" that may be brought against them.⁵

¹ In order to prevent union men from obtaining employment inadvertently in non-union or "scab" shops, many unions publish a list of such establishments in their journals.

² United Mine Workers, District No. 13, Constitution, 1906, Art. XII, Sec. 7.

³ Flint Glass Workers, Constitution, 1909, Art. XXIII, Sec. 3.

⁴ Printing Pressmen, Constitution, 1903, By-Laws, Art. I, Sec. 5.

⁵ Flint Glass Workers, Proceedings of the Twenty-fourth Annual Convention, 1902, pp. 53, 382, 386. In 1898 the Molders provided that members working in non-union or open shops could not claim or receive financial support if discharged for any reason unless "specifically authorized" by the union "to act in its behalf" (Constitution, 1898, New Decisions, No. 31). The Typographical Union will not recognize a strike in an open or non-union office.

CHAPTER VIII.

THE CLOSED SHOP AS A TRADE-UNION DEVICE.

To many persons the closed shop seems an arbitrary institution which could well be abandoned without injury to the cause of organized labor. In their view the exclusion of non-unionists from employment is for no ostensible reason except to exercise accidental power or wantonly to deprive certain workmen of a livelihood. The friends of union labor who take this view wish to see the open shop universally established. Under the open shop it is claimed that both union and non-union men would receive fair treatment, as discrimination in employment would not exist. Employers, it is said, would not try to abolish collective bargaining, since they are not only ready but anxious to make contracts with the "proper kind" of unions. Finally, the friends of the open shop declare that a properly conducted union can attract non-unionists to itself by means of beneficial, social, and educational features. To illustrate how well labor organizations can succeed without discriminating against non-members, attention has usually been called to the four great railway brotherhoods, the Locomotive Engineers, the Railway Conductors, the Locomotive Firemen and Enginemen, and the Railroad Trainmen. These organizations are admittedly strong and vigorous beyond the majority of American trade unions, although they do not refuse to work with non-unionists.

In answer to such criticism the closed-shop unions have explained at some length their motives in requiring the exclusive employment of union members. In the first place, they claim that the closed shop is necessary to enforce discipline over union members. If the union scale and the rules are to be enforced, there must be some sufficient pen-

alty attached to their violation. The fear of exclusion from employment is considered the "best possible means" of holding members "to fidelity to the union."¹ There is no penalty which a workman fears so much as that of being deprived of his employment and possibly of his livelihood. This is the punishment administered to him in case he violates union rules or wage scales in an establishment where the closed shop is enforced. Neither social ostracism nor loss of the right to share in accumulated union funds can compare in rigor with exclusion from a trade.

Moreover, it is argued that unless a union has complete control over the workmen in a shop it cannot prevent non-unionists from rendering its rules ineffective. Particularly is this the case if the open shop involves the use of individual agreements.² Non-union men are then not restrained from working under whatever conditions they see fit. Although union men may agree among themselves to work only for certain wages, non-unionists often prove "subservient" enough to work for less. The employer naturally favors the cheaper men and will endeavor to fill his shop with them. Accordingly one by one union men will be discharged when non-unionists can be secured. The open shop, therefore, "means only an open door through which to turn the union man out and bring the non-union man in to take his place."³ "Weak-kneed" union men who do not wish to lose their jobs will follow the example of the non-unionists and accept reductions in their wages. In a short while the wage scale has been hopelessly undermined. "The result of a number of non-unionists cutting wages or the price of work is like the existence in a community of healthy people

¹ At the trial of the Boot and Shoemakers of Philadelphia in 1806 a witness stated that the object of the society was "to support the price of wages," and that "the scab law was the stimulus to the members to support what they undertook; there must be a stimulus in every society to keep the members to their common engagements" (The Trial of the Boot and Shoemakers of Philadelphia. Taken by Thomas Lloyd. Reprinted in Commons and Gilmore, Vol. III, p. 86).

² The International Woodcarver, July, 1905, p. 4.

³ Darrow, The Open Shop, p. 26.

of a man afflicted by a contagious disease.”¹ The open shop thus compels organized workmen to give way to the unorganized.²

The closed-shop unions also claim that the open shop makes collective bargaining to a large extent ineffective. Employers in trade agreements are “constantly seeking to extend the responsibility of trade unions.” “To meet this responsibility it is incumbent upon the labor organizations to exercise jurisdiction over all the men employed in the same shop, over all those working at a given trade or calling, otherwise the unions will be powerless to enforce any contract.”³ A bulletin of the American Federation of Labor sets forth that “the agreement . . . of organized labor with employers depends for its success not only upon the good will of the union and the employer toward each other, but that neither shall be subject to the irresponsibility or lack of intelligence of the non-unionist or his failure to act in concert with, and bear the equal responsibility of, the unionists.”⁴ Only when the closed shop is enforced are all workmen in an establishment equally responsible for the observance of a collective contract with the employer, since all are then parties to it and can be severely disciplined if they violate its provisions. Only under such conditions do the unions consider that collective bargaining becomes “complete, effective, successful.”

One point which the unions have not emphasized is the part that the closed shop plays in excluding from the trade persons who are ineligible to union membership. The question is often asked, however, why it is not possible for

¹ Mitchell, p. 281.

² Statements like the following are easy to find in the journals of closed-shop unions: “The open shop means to unionism just what slow poison means to the human system.” “On the open shop question there is nothing to arbitrate. Our unions cannot consent to arbitrate a question that involves their very lives.” “The strongest argument against the open shop is, that if the employer were permitted to hire non-union workmen, the union workmen would soon be displaced and union standards broken down.” “An establishment cannot long remain . . . part union and part non-union.”

³ The Elevator Constructor, December, 1904, p. 26.

⁴ The Granite Cutters’ Journal, November, 1903, p. 5.

unions to discriminate against "scabs" and inadmissible persons and still make no objection to non-unionists eligible for membership and with clear records. The unions sometimes answer that union men in a shop have no means of ascertaining whether a non-unionist is working below the established rate. This, however, is not a valid reason, as uniform scales are often paid in open shops. The one reason why the unions have preferred to discriminate against all non-union men rather than against certain classes of non-unionists has been the constant friction with the employer involved in the latter method. With every new case of exclusion the unions were compelled to explain why they took such action. By requiring the employer to recognize the rule that none but union members should be hired the exclusion of undesirable persons became "automatic," and each case of discrimination did not become "the occasion of a new difficulty."¹

The unions also claim that the continued presence of non-union men in a shop is likely to make for a completely non-union shop. A prominent spokesman for the unions recently said: "The promotions, the easy places, the favors, all fall to the non-union workman, whose presence and whose attitude is ever helpful to the employer and a menace to his fellow workman. If some one is to be relieved for a day, if a laborer is given extra work, if a workman is specially commissioned for an important duty, and if some one is to be promoted it is always the non-union man. This is his reward for minding his own business. . . . Union men are much like other men. They cannot long be persuaded to pay dues, to make sacrifices for their organization, when they find that others are favored or promoted over them, or receive special privileges because they are non-union men."²

That many open-shop employers have discriminated against union men cannot be denied. Although they have usually avoided "victimizing" them openly, yet they have

¹ Barnett, p. 289.

² Darrow, p. 27.

easily found pretexts on which to discharge union men, especially officers and "agitators." The laws passed in several States and by Congress against the discharge of workmen because of union membership have been for the most part held to be unconstitutional.¹ The only effective defense that a union can make against an employer who discriminates against its members is to discriminate against non-unionists.² In certain closed shops the danger that the employer will gradually eliminate the unionists is not present. In these shops all workmen of a certain class receive uniform pay, and work the same number of hours under identical conditions. The advocates of the closed shop contend, however, that even if all employees are paid at the same rate and no preference is shown to non-unionists, there would still be, in most trades, a disastrous falling off in union membership in such shops. Non-union men would receive all the advantages of the improvement of working conditions obtained by the union, and yet contribute nothing to the support of the organization. When union members see that they are bearing burdens from which the non-unionists escape, they will be likely to drop their membership.³

That this does not always occur was proved by the suc-

¹ See, for example, *Adair v. United States*, 208 U. S. 161.

² "From the economic point of view the fewest difficulties are encountered in the case of a union that is compelled to fight for the mere right to exist. When employers undertake . . . to discriminate constantly against union men . . . the organization is likely to disintegrate unless it resists the employment of non-union men. . . . It is hard to criticize a union for meeting discrimination with discrimination" (Bullock, "The Closed Shop," in *Atlantic Monthly*, October, 1904, p. 435).

³ *Bricklayers and Masons, Thirty-eighth Annual Report of President and Secretary*, 1903, p. 432. In discussing the open-shop agreement which the Printing Pressmen signed with the Typothetae in 1904, the *International Bookbinder* (September, 1904, p. 168) offered the following comment: "We cannot see the benefit that would be derived by allowing employers to give to non-union men the same wages that union men have struggled and fought so hard to obtain. There may be cases where non-union men may join the organization if their wages have been increased thereby, but how can we expect union men to pay their dues and assessments if the organization they are members of secures increase of pay for men who are not members, and in most cases enemies of unionism, and will not under any condition join the union."

cess of the open-shop agreements formerly in force in the coal-mining and stove-founding industries. Under them the unions made great increase in membership. This result was due to three characteristics of these agreements. In the first place, they were made by associations of employers and not by individual employers. The associations promptly fined any member who violated the agreements, as they wished to keep all employers on the "same competitive level." Secondly, the agreement covered "not only members of the union, but all positions of the same grade, whether filled by union or non-union men."¹ Finally, provision was made for the reference of "all unsettled complaints either against unionists or non-unionists to a joint conference of the officers of the union and the association." Arbitration was used in settling "all matters of discrimination as well as matters of wages, hours and rules of work, . . . all questions of hiring, discharging and disciplining both union and non-union men."² Thus in every direction the unions were guarded against discrimination.

To the railway unions and brotherhoods also there is little danger in the open shop. Railroad corporations do not bargain individually with their employees, but fix a uniform rate for all workmen of a certain class. All the conditions of employment apply to union men and non-unionists alike. The only exception to this rule is found in the case of certain railroads in the South which pay a lower scale of wages to negro than to white firemen. This is considered a serious menace by the Locomotive Firemen and Enginemen, but they have as yet been unable to secure any change. The four great railway brotherhoods are also protected by the fact that the handling of trains is a highly responsible task which cannot be undertaken on short notice by untrained men. The union garment worker in an open shop must constantly meet the competition of the unorganized newly-arrived immigrant, but there is little danger that union

¹ Commons, "Causes of the Union Shop Policy," in *Proceedings of the American Economic Association*, 1905, p. 146.

² *Ibid.*, p. 147.

train crews, no matter how opposed a railroad corporation may become to labor unions, will be gradually discharged to make way for "independent" workmen.¹ In all highly skilled trades there is less necessity for the closed shop than there is in those demanding less skill.

The railroad brotherhoods find it possible under the open shop to secure a large membership and to enforce their rules because of the exceptional value of their beneficiary features. These organizations issue insurance against death and disability in policies of \$1,000 or more. The Locomotive Engineers, in fact, will issue a policy for as much as \$4,500.² In the closed shop unions such as the Carpenters, Cigar Makers, Granite Cutters and Tailors death benefits are paid only in amounts varying from \$25 to \$550.³ No disability benefits are paid whatever. Members of these unions can secure insurance from old line insurance companies at rates but slightly in advance over those charged for union benefits, but railroad work is so highly dangerous that old line insurance companies exact a relatively high premium for policies issued to railway employees. So well have the railroad brotherhoods managed their beneficiary systems that the Locomotive Firemen and Enginemen, for instance, are able to grant insurance to members for "considerably less than one half of company rates."⁴ The advantage to be derived from affiliation with such an organization is so obvious that a railroad employee, facing daily the possibility of accident, is anxious to obtain membership. Again, since the violation of brotherhood rules may lead to expulsion from membership and loss of the right to participate in beneficiary features, members of the organization are seldom in need of other discipline. On the other hand, in those unions where the benefits paid possess no special

¹ As a matter of fact, on most of the important railway systems the brotherhoods have in their membership approximately seventy-five to ninety-five per cent. of all the employees eligible to membership.

² Kennedy, p. 41.

³ Ibid., pp. 54-56.

⁴ Ibid., p. 47.

attractiveness, it needs something more than the mere loss of their receipt to prevent "scabbing" and other infractions of union rules.

The Switchmen, the Maintenance-of-Way Employees, the Railroad Telegraphers, and the unions whose members are employed in railway shops also work in accordance with general orders covering both union and non-union men. The first three organizations pay substantial benefits and thus attract a large part of the men. The Boilermakers, the Machinists, the Metal Polishers, the Iron Molders, the Pattern Makers, and other metal trades unions, however, find that the open shop in the railroad shops works to their decided disadvantage, and have done all in their power to unionize the shops.

The attitude of the few other open-shop unions can be easily explained. The Masters, Mates and Pilots is an organization of officers which has as its chief purposes the payment of insurance and the securing of legislation. It is not a trade union and hence has no need of the closed shop. The National Association of Steam Engineers is an educational organization which has "nothing to do with the question of wages." The Steel Plate Transferers, as noted above,¹ can scarcely be called a trade union, as it does not attempt to regulate wages. The Letter Carriers and the two associations of Post Office Clerks, who also make no demand for the closed shop, are all under the classified service of the Federal Government, and their wages, hours, and other conditions of employment are regulated by Congress. There is no possibility, therefore, that wages will be cut by non-union men, or that preference will be shown them. The associations were formed chiefly to get civil-service employees in the post-office department to act together in presenting petitions to Congress through the postmaster general.

In sharp contrast to the policy of the Letter Carriers and the Post Office Clerks, the printing trades unions have enforced the closed shop in the United States Government

¹ See p. 31.

Printing Office and in the Canadian Printing Bureau. These unions claim that through the closed shop petty tyranny on the part of foremen is prevented. It is to be noted that only a small part of the members are in government employ. The closed shop does not here serve the interest of the government employees so much as that of the union as a whole. The exclusion of "scabs" and undesirable persons is national, and is presumably in the interest of all unionists. If the Government Printing Office were non-union, to that extent the system of national exclusion would be weakened.¹

A "sentimental"² argument has also been advanced in favor of the closed shop as a trade-union device. Non-union men, it is said, are "industrial parasites" who do nothing to help organized labor fight its battles. "To say that the fruits of victory should come without effort, nay, as a reward for cowardice and disloyalty, is neither right in the realm of ethics or in the practical work-a-day world."³ Consequently the non-unionist "should not consider it a grievance if at the conclusion of a successful strike he should be invited to join the union or work only with other non-unionists. . . . All that is demanded is that the cost and burdens of union management and action be fairly shared by these men in the future."⁴ This argument fails to take account of the real motives for excluding non-unionists. Although resentment has often been aroused against non-unionists because they escape paying dues, as for example among the Paper Makers, there would be no discrimination against them if their presence did not endanger the enforcement of union wages and shop rules. Among the Railroad Trainmen, for instance, there have been no protests against the employment of non-members for "senti-

¹ "To recognize the principle of the union shop in all other parts of the nation, and then except the government employees, only means to use the government service as a club to destroy all that the honest and unceasing efforts of organized labor have accomplished" (*American Federationist*, January, 1905, p. 14).

² So termed by Prof. J. R. Commons in a paper before the American Economic Association in 1905.

³ Darrow, p. 31.

⁴ Mitchell, p. 280.

mental" reasons. This is because the open shop is not a menace in railroad work.¹

An argument for the closed shop of which much has been made is that it increases trade-union membership. Experience has shown that there are always a large number of workmen "in and out of the union." They are "in the union" when they obtain a job in a closed shop; they are "out of the union" when they work in a shop where a union card is not necessary. It has been said that "the mere closing of one door to the non-unionist is the best argument to him for application."² Instances of marvelous growth in membership following the introduction of the card system have also been frequently reported.

A recent writer in dealing with a typical American trade union indicates the two ways in which the closed shop increases union membership. "In the first place, when the union has once unionized an office, it is able by requiring the exclusive employment of unionists to affiliate with itself every workman who thereafter obtains work in the office. The rule thereby tends to continue a control once obtained. The closed shop rule can be viewed in another aspect as a device for securing the unionizing of offices, and of thereby bringing in new members. If a local union controls a large part of the labor supply, the influence of the closed shop rule as a means of increasing the membership may be very considerable. If, for example, in a community where 500 printers are employed, 400 are members of the union, both the non-unionist workmen and their employers will be at a

¹ In New Zealand, where compulsory arbitration is in vogue, preference is given union men by the arbitration courts. "Among the arguments in favor of preference, the chief is that the unionists go to much trouble and expense to obtain concessions, not only for themselves but for other laborers and that non-unionists can obtain preference by joining the union. Also preference is sometimes regarded as a compensation to unionists for having given up the right to strike. Preference, too, protects active unionists from being victimized by their employers. . . . In brief, the question is practically the same as that of the closed shop in the United States" (Le Rossignol and Stewart, "Compulsory Arbitration in New Zealand," in *Quarterly Journal of Economics*, August, 1910, p. 680).

² Bookbinders, Official Proceedings of the Sixth Annual Convention, 1898, p. 21.

distinct disadvantage. A non-unionist workman, if he can earn the minimum rate, will be eager to secure access to the wider opportunities for employment which the unionist possesses. The non-union employer under such circumstances cannot discharge his workmen and thus reduce expenses so readily in times when business is slack as he otherwise would, for he cannot easily replace his employees from his restricted labor market. At times, for the same reason, he must go outside his home labor market, at expense and inconvenience, to supply himself with printers. But just as the closed shop rule is a powerful instrument for unionizing offices when the union is strong and controls a great part of the labor supply, so it is a hindrance when the union is weak. The unionist and the employer of unionists suffer in this case under the same disadvantage of a restricted labor market as non-unionists and the non-union employer do when the union is strong.”¹

Finally, it has been asserted in defense of the closed shop that the exclusive employment of union men is necessary in many trades because of the legal principle known as the “fellow-servant doctrine.” In dangerous employments, it is said, skilled union men run constant risk from having to work with unknown non-unionists. If the latter, by careless acts, injure unionists, no redress is ordinarily to be had. If the shop is an open one, their discharge cannot be forced. As the common law requires “each to be responsible for the rest,” it is maintained by unionists as in accord with the “most elementary principles of self preservation” that they should seek through the union to have some voice in choosing

¹ Barnett, pp. 290-291. One effect of the closed shop of which little mention has been made is that it tends in some unions to make employment more regular for members of the union. Since employers ordinarily hire workmen who are members of the union, no more workmen are brought into the union than are needed. When trade is brisk, forays are made by the union into open shops and the needed men are recruited. Such an argument applies most to those unions which not only force the preferential employment of their members, but also refuse admission to non-unionists when work is slack. Even, however, in ordinary closed-shop unions it is probable that unemployment is slightly less among the unionists than among the non-unionists in the trade.

their fellow-employees.¹ The fellow-servant argument, like the "sentimental" argument, is an afterthought on the part of zealous unionists and their sympathizers. No union was ever led by such an argument to introduce the closed shop. There are probably few employers who would continue to hire a habitually reckless workman. In a few cases, however, the argument has been seriously considered by the courts.²

It will thus be seen that the closed shop is used by trade unions as a device to gain certain ends. It is not an end in itself. It cannot be explained on the grounds of unreasoning prejudice against non-union men. It is an utterly mistaken view to regard it as a mere "passing phase" of unionism. It is also probably safe to say with Mr. John Mitchell that "with the growth of trade unionism in the United States the exclusion of non-unionists will become more complete."³

¹ Elevator Constructor, October, 1905, p. 15. See also Darrow, pp. 21-22.

² In rendering the majority opinion in the case of *National Protective Association v. Cumming* (170 N. Y., 315), Chief Justice Parker of the court of appeals said: "It cannot be open to question but that a legitimate and necessary object of societies like the defendant association would be to assure the lives and limbs of their members against the negligent acts of a co-employee. . . . It is well known that some men, even in the presence of danger, are perfectly reckless of themselves and careless of the rights of others. . . . These careless, reckless men are known to their associates, who not only have the right to protect themselves from such men, but, in the present state of the law, it is their *duty* through their organizations, to attempt to do so, as to the trades affording special opportunities for mischief arising from recklessness. . . . The master's duty is discharged if the workman be competent, and for his recklessness, which renders his employment a menace to others, the master is not responsible."

³ Organized Labor, p. 285.

CHAPTER IX.

SOCIAL ASPECTS OF THE CLOSED SHOP.

In the preceding chapter attention was confined to an exposition of the motives which have led the unions to enforce the closed shop. There still remains to be considered how far the closed shop is economically and socially desirable. This inquiry may be conveniently divided into three parts: (a) the effect of the closed shop upon the economic conduct of industry, (b) its effect upon the welfare of the non-union man, (c) its ultimate effect upon the unions themselves.

(a) *The closed shop and the economic conduct of industry.*—In recent popular discussion of the closed shop much emphasis has been put upon its uneconomical character. The charge is made that the demand for the exclusive employment of union men, by interfering with the right of an employer to “run his own business,” makes high efficiency impossible.¹ This argument is based on the fact that the employer, under the competitive system, is alone responsible for the successful conduct of business undertakings. If he fails to produce as well and as cheaply as others do, the loss is his. It is necessary, therefore, for the most economic conduct of business that the employer “should have power to order his own affairs.” He “should not be influenced by any other consideration in the hiring of men than the ability, fitness or loyalty of the applicant.”² At the same time he should be free to reward exceptional workmen and to discharge those who are inefficient or insubordinate. He

¹ As early as 1836 the Master Carpenters of Philadelphia asserted their “right as Free Citizens” to run their business as they saw fit (*The Pennsylvanian*, March 17, 1836, p. 2. Reprinted in *Commons and Sumner*, Vol. VI, p. 53).

² *Citizens’ Industrial Association of America*, Proceedings of the Adjourned Session of the First Convention, 1904, p. 11.

should be the sole judge as to the kind of machinery, tools, and material to be used. Only in this way, it is argued, can the employer secure that "effective discipline" which is essential in bringing about the "highest measure of success . . . in industry."¹

The "essence" of the open shop is that the employer is entirely free "to hire and discharge."² It gives him, therefore, the opportunity for initiative, and subjects him to the control of no influence save that of the market. The closed shop, on the other hand, is attacked because it does not leave the employer free.³ It denies him the "right to hire and discharge." If the employer wishes to hire competent non-union men, he is prevented from procuring their services if they cannot or will not obtain union membership. Often he is compelled because of a "waiting list" to hire the union men who have been longest out of employment regardless of their ability or fitness. The "walking delegate"⁴ in some cases, it is said, usurps the employer's prerogative.

The employer complains that under the closed shop, instead of being able to secure workmen regardless of whether they are union or non-union, white or black, Catholic or Protestant, Jew or Gentile, he is compelled to draw from a definitely fixed labor market. Very often, too, this market is severely limited by the refusal of the unions on one ground or another to admit competent workmen to membership.⁵ He cannot hire members of other unions who are competent to do the work because this will at once involve him in a jurisdictional dispute. One trial is enough to demonstrate

¹ Citizens' Industrial Association of America, Proceedings of the Adjourned Session of the First Convention, 1904, p. 11.

² *The Open Shop*, October, 1906, p. 479.

³ Employers have complained that since they must discharge workmen who refuse to join a union, they virtually act as union organizers or business agents. They consider it highly improper that their aid should be requisitioned for trade-union ends.

⁴ The name "walking delegate" is preferred by most employers to "business agent," the name now more ordinarily used by unions.

⁵ "Further, by imposing large initiation fees or other penalties, the union may limit its membership, thus shortening the supply of labor, to the injury of the employer and of trade in general" (Statement of Marcus M. Marks, quoted in *The Labor Compendium*, August 28, 1904, p. 1).

the fact that members of rival unions tolerate each others' presence less than they do that of non-unionists. There is then no practicable way in which he can secure additional help when his work increases except by bidding for workmen against other union employers. It is also said that the closed shop serves to prevent the discharge of inefficient employees. If such persons are dismissed from employment, they try to make it appear that they have been "victimized" on account of union membership. Often they secure a sympathetic hearing from their union, and the latter forces their reinstatement.

Another evil attributed to the closed shop is that it establishes a minimum wage which becomes virtually also a maximum wage. This is said to produce a disastrous "dead level" of efficiency throughout an establishment and to discourage effort.¹ Accordingly union control is declared to be "absolute death to individual effort and ambition," and to cause the degeneration of "mental and moral fiber."² Restriction of output is the direct result of such conditions. Especially harmful does the closed shop become, in the opinion of its opponents, when a union requires foremen to obey its rules and to serve the union rather than the employers.³ All closed-shop unions, it is represented, "define the workman's rights but say nothing of his duties. . . . They destroy shop discipline and put nothing in its place."⁴

To these indictments the advocates of the closed shop have made vigorous rejoinder. They assert that while the unions do not allow employers to "victimize" their members, they do not interfere otherwise with the "right to hire and discharge" as long as all persons who are hired become union members. It is also flatly denied that the minimum wage is usually the maximum, and that production is restricted in closed shops.

¹ The Open Shop, November, 1905, p. 522.

² Hibbard, "The Necessity of an Open Shop," in Proceedings of the American Economic Association, 1905, p. 181.

³ Bulletin of the National Metal Trades Association, February, 1903, p. 80.

⁴ Walling, "Can Labor Unions be Destroyed?" in World's Work, May, 1904, p. 4757.

The reconciliation of these conflicting statements of facts is possible. The opponents of the closed shop in discussing its economic effects always assume that the closed shop is everywhere the same, and take as typical those unions in which the restrictions on employment are most severe. The advocates of the closed shop assume as typical those unions in which the restrictions are mildest. If reference is made to a preceding chapter,¹ it will be noted that the unions vary widely in this respect. In some unions, employers are allowed to hire only such persons as have already become union members. In fewer cases employers are restricted to hiring persons who have been union members for a fixed period. That such rules are injurious cannot be denied. Compulsory "waiting lists," too, are found in a few unions; where such lists are in force the employer's right to hire and discharge is almost entirely destroyed.² In the majority of closed-shop unions, however, we have seen that the employer is allowed to hire non-unionists when competent unionists are not available, or even in many unions when they are available. It is also customary to allow such non-unionists to work a certain period in a shop before being required to join the union. There is little basis for the claim, therefore, that employers are restricted to hiring union men only. It is true that "scabs" and members of rival unions are rarely allowed to work. "Scabs," however, form but a small part of the men in any trade, and agreements between rival unions have now to some extent solved the problem of jurisdictional disputes.

If the union itself is closed, that is, will admit new members only with great difficulty, union employers have no means of obtaining additional help when their business increases. The closed union, however, although it is usually found with the closed shop, is not identical with it. To say that no more members shall be admitted to a union is an entirely different thing from saying that union men shall not

¹ See p. 59 et seq.

² According to the Eleventh Special Report of the Commissioner of Labor in 1904 (pp. 20-21), waiting lists were found in only a few unions.

work with non-unionists. It cannot be denied that the effect of "closing" a union is made economically important by the requirement that only members of the union shall be employed. If the union is closed but the shop is open, the excluded workmen alone are affected. But if a closed union enforces the closed shop, workmen, employers, and the consumer suffer loss. A highly objectionable feature to be found in certain closed-shop agreements is the provision that employers shall hire only members of a certain local union. The only economic method is to allow the employer to "take on" any one he will as long as such persons join the local union having jurisdiction.

There is much truth in the charge that some closed-shop unions have prevented the discharge of inefficient workmen on the score of "victimization."¹ The older unions have come to understand that nothing is gained by such a policy. They realize that employers cannot destroy the union by "victimizing" members if the persons they hire are required to become members. The closed-shop rule does not necessarily require any infringement on the employer's right to discharge. In instances where this right has been limited, use has been made of the power derived from the closed shop to enforce a union rule. It is quite possible for open-shop unions to seek to prevent their members from being dismissed from employment, even though they are incompetent or insubordinate.²

All unions that have advanced beyond the most rudimentary stage enforce a minimum wage. The tendency to uniformity and a "dead level" growing out of the existence of the minimum wage can only be connected with the closed shop through some restriction on the right to hire and discharge. If the union has a compulsory waiting list, it is easy to see how the minimum wage may become the maximum wage. As has been pointed out, however, compul-

¹ Eleventh Special Report of the Commissioner of Labor, 1904, p. 20.

² Charges to this effect have been freely made against the railway brotherhoods. See, for instance, Fagan, *Confessions of a Railroad Signalman*.

sory waiting lists are established in very few unions. Similarly, restriction of output is connected with the closed shop only through the waiting list. A great part of closed-shop unions do not have waiting lists.

It is also charged that the joint and extended closed shops lead to demands upon employers. When satisfactory conditions have been obtained in one trade, the men may be called out on strike because "unfair" material is used, or because the open shop exists in an allied trade. Moreover, the closed shop puts work "at the risk of and even invites jurisdictional disputes." Grievances "manufactured outside the shop" are thus said to be constantly arising. Complaint is also made that the closed shop is responsible for many unnecessary shop rules which virtually deprive the employer of control over his business.¹ One writer has gone so far as to say that "the amount of restriction which it may be expected to find in 'closed shops' will certainly amount to one-third of what the output should amount to."² Statements have frequently been made that the open shop has brought business prosperity to different communities.³ It has been declared that "in no case . . . has the demand for a union shop been accompanied by a proposition for benefit to the employer."⁴

Taking up the last of these contentions first, the unions allege that closed-shop agreements are of distinct advantage to employers. It is pointed out that in some of the most aggressive closed-shop unions, such as the Bricklayers and Masons, the Longshoremens, and the Printers, local agreements have been "underwritten" by the national union

¹ "Of course, the gravest phase, to employers, of the 'closed shop' is that the unions, not satisfied with having obtained fulfillment of their demand that their members only be employed, forthwith proceed to assert under their rules the authority to control the shop and the methods used" (*The Open Shop*, January, 1905, p. 10).

² *The Open Shop*, January, 1905, p. 9.

³ Thus at a dinner in Wilkes-Barre, Pennsylvania, in 1906 one of the speakers asserted that the open shop had proved to be the "greatest factor" in bringing prosperity to the city (*The Open Shop*, September, 1906, pp. 419-420).

⁴ Pfahler, "Free Shops for Free Men," in *Proceedings of the American Economic Association*, 1902, p. 186.

when they provide for the exclusive employment of union members.¹ In open shops of most trades the employer is said to be constantly harassed with complaints from individuals. In closed shops all grievances must first be referred to the union, which acts upon many of them unfavorably.² Great stability is given to an agreement when a national union "underwrites" it. It is equally undeniable that most unions which have opportunity to enforce the extended or the joint closed shop have not hesitated at times to strike even when all their demands in the particular shop have been satisfied. Moreover, the closed shop has involved employers in wasteful jurisdictional disputes with which they have no real concern. Were there no closed shop such disputes would be robbed of all their bitterness.

The unions have also denied in a general way that their shop rules have been unduly restrictive. As a matter of fact, the great open-shop movement which began in 1901 was caused primarily by the rapid increase in rules regulating the number of apprentices, the kind of machinery that should be used, the methods of shop management, and the like. The connection between the closed shop and arbitrary shop rules is close, but the two are not identical. Arbitrary rules can rarely be enforced except in closed shops. If the union is strong enough to secure the one, it can, if it sees fit, enforce the other. Obviously, however, a closed-shop union need not, and many of them do not, have hurtful shop rules.

The defenders of the closed shop, however, have not contented themselves with endeavoring to answer their opponents. They have tried to show that the closed shop is an advantage to an employer. In the first place, they claim that the closed shop protects fair-minded employers from "cut-throat competition." If an industry is thoroughly unionized, every manufacturer or contractor can tell precisely what his competitors are paying in wages. As wages form the largest item in the average employer's expense

¹ The Bricklayer and Mason, November, 1903, p. 5.

² The Cigar Makers' Official Journal, April, 1899, p. 8.

account, it therefore becomes possible for him to "figure intelligently on his work," something which he "could never feel certain of were the open shop to prevail."¹ The same shop rules also apply in all union establishments. Under the open shop not nearly the same uniformity in competitive conditions can be secured. The closed shop is a device absolutely essential to the rigid and wide enforcement of union rules. Without it, the "check which the union rules have placed on the unscrupulous employer will be swept aside," and the "fair competitive basis" established under the closed shop will be destroyed.²

This argument can be valid only when applied to a sharply competitive industry which is thoroughly unionized. It would be absurd to claim that the closed shop tends to protect employers in the steel industry from "cutthroat competition." Likewise it would be extravagant to represent that one employer was put on a "fair competitive basis" with others if his shop alone were unionized. The argument is therefore chiefly applicable to trades, like the building trades, which are highly competitive and fairly well organized.³ Even in the building trades only the larger contractors have ever been placed on a "fair competitive basis" with each other. The small contractor who runs a "one-man shop" is still free to cut prices.

Secondly, those who uphold the closed shop affirm that it tends to create a greater esprit de corps among the men than the open shop does. Union and non-union men represent two diametrically opposed ideas. The first stand for collective, the second for individual action. Consequently, there is constant conflict between the two in the endeavor

¹ Official Journal of the Brotherhood of Painters, Decorators and Paperhangers, July, 1904, p. 358.

² Kidd, "The Open Shop vs. Trade Unionism," in Proceedings of the American Economic Association, 1905, p. 198.

³ Employers have frequently informed the Cigar Makers, the Garment Workers, the Granite Cutters, the Iron Molders, and building trades unions that they could not afford to unionize their shops unless the establishments of their chief competitors were also unionized. See, for example, The Granite Cutters' Journal, February, 1906, p. 4.

to obtain control over a shop. Because his men do not cooperate, the employer is likely to lose money.¹ Therefore as a business necessity open shops must become either union or non-union.² That there should be ill feeling between union and non-union men is easily understood when we consider why unions desire the closed shop. Non-union men are the economic enemies of unionists as long as employers resort to individual bargaining or express a dislike for full union control. In most open shops, therefore, there is an element of unrest and dissatisfaction. Even in the organizations which do not enforce the exclusive employment of members there is usually not the same cooperation between union and non-union men that there is between the unionists themselves. In particular, efforts are put forth to make the employment of "scabs" unprofitable. For this reason, after a strike of the Trainmen or Firemen has been settled, railroads have almost always discharged their strike-breakers quietly, but as quickly as possible.

Finally, unionists say that the closed shop is advantageous to employers because in many unions it carries with it the privilege of using a label that has a distinct market value. In the building trades it is represented that a contractor profits by employing unionists exclusively, since business agents always endeavor to secure jobs for "fair" employers. No union solicits work for an open shop.³ A label, however, is an advantage to an employer only under certain conditions. It can be used to best advantage on articles largely purchased by the laboring classes. That a label increases sales on such goods is evidenced by the fact that manufacturers, solely for the purpose of obtaining the use

¹ The Bridgeman's Magazine, December, 1904, p. 15.

² "As the immortal Lincoln said, 'This country cannot long remain half free and half slave.' So say we, that any establishment cannot long remain, or be successfully operated, part union and part non-union" (American Federation of Labor, Proceedings of the Twenty-third Annual Convention, 1903, p. 20, President's Report).

³ "The Bricklayers of New York and of a number of other cities are at times practically a collection agency for their employers. The annual agreement provides that no bricklayer shall work on a building for any one where money is owing to an employer until payment has been made" (The Bricklayer and Mason, November, 1903, p. 5).

of the label, have often asked that their establishments be unionized.¹ The labor journals not infrequently contain statements from employers that the closed shop is a "good business proposition."² But the label rarely effects an increase in the demand for expensive goods or for articles sold to women.³ It is evident, therefore, that the number of employers who can find an advantage in the use of the labels is small relative to the total number of employers. Business agents are often able to secure jobs for "fair" building contractors, but if the building industry were thoroughly unionized, one employer would be able to secure no advantage over others in this way, since all would be equally "fair."

Neither employers nor unions have had much to say concerning the advantages of "exclusive agreements."⁴ This is explained by the fact that such agreements are generally condemned as being in restraint of trade and therefore against public policy. Employers who are parties to them obtain a great advantage over competitors in localities where the unions are strong, since they secure a virtual monopoly of the labor supply. Consequently the employer outside the association is nearly always desirous to enter. He complains of the losses that come from having to employ non-union men, and is eager to agree to hire union men exclusively. But while the closed shop under such conditions may be an advantage to those employers with whom a union agrees to deal exclusively, the public interest suffers inasmuch as competition is effectively stifled.

To sum up the arguments against the closed shop on the ground that it affects unfavorably the economic conduct of industry, it may be said that the crux of the question is whether or not the "right to hire and discharge" is unduly

¹ See above, pp. 134-135.

² The *International Bookbinder*, April, 1905, p. 120. For union comments on open shops that have failed in business see *The Granite Cutters' Journal*, June, 1905, p. 2; *Printing Pressmen*, President's Report, 1908, p. 31.

³ For an interesting discussion of the demand for label goods, see Spedden, p. 74.

⁴ See above, p. 61.

restricted under the closed shop. The employer may enjoy the use of a valuable label and may be placed on a "fair competitive basis" with other employers. Individually the employer may reap a gain. But in the long run industry will be carried on less efficiently if by waiting lists or other restrictive devices the union interferes with the employer's hiring and discharging his working force in accordance with his best judgment. Similarly, a "closed union" restricts the employer in his choice of workmen. In those unions in which such practices exist the closed shop is to be condemned in that it is only through the device of the closed shop that waiting lists and arbitrary restrictions on membership can be made workable.

(b) *The closed shop and the non-union man.*—The opponents of the closed shop also declare that the closed shop is an injustice to unorganized labor. They assert that the demand for the closed shop "is in fact the demand for the installation of a labor monopoly."¹ For a union to exclude non-members from employment is denounced as an act of "criminal selfishness" because it deprives the latter of a property right in which they have as great an interest as unionists.² Ten or fifteen per cent. of the working class, it is said, are trying to prevent the remaining eighty-five or ninety per cent. from obtaining employment, although the latter consists more largely of persons, like women and immigrants, who have special need of protection and assistance.³ Trade unions are therefore as "tyrannical" as capitalistic trusts, for they violate the principle of equal opportunity by aiming to "gain an advantage for the insiders over the outsiders."⁴ The closed shop itself, therefore, is said to be "far from . . . a democratic invention," as it is "a means of promoting the interests of a certain group or class against the interests of the mass."⁵

¹ The Open Shop, September, 1906, p. 418.

² Ibid., November, 1905, p. 516.

³ Bulletin of the National Metal Trades Association, October 1, 1902, p. 146.

⁴ Report of the Industrial Commission, Vol. XIV, 1901, Review of Evidence, p. lxvii.

⁵ Eliot, The Future of Trade-Unionism and Capitalism, p. 63.

In reply the unions have answered that it is not their purpose to establish a labor monopoly through the closed shop, that on the contrary it is the purpose of every union "to get every man following or engaged at a business to affiliate himself."¹ To this end vigorous campaigns for members are conducted among non-unionists, and "hundreds of missionaries are at work, in and out of season, urging and pleading with them to enter the wide-open doors of the union."² Furthermore, it is said that even if it is true that ninety per cent. of the wage earners in America are non-union, the great majority of non-unionists are "in occupations in which there are no unions at all, or in which the unions are too weak to think of challenging a contest over the employment of workers outside their organizations."³

Here again it seems to the writer that many of the critics of the closed shop have identified it with the closed union. If non-union men have no difficulty in obtaining union membership, it is hard to see how the closed shop can be condemned as a "criminally selfish" device. Only when a union declares that it will not work with non-members and then refuses to admit the latter to membership can monopolistic motives properly be charged.⁴ Closed unions, however, are rarely found at present except in decaying trades. The closed shop is ordinarily intended not to restrict membership but to increase it, as has already been shown.⁵ Even a union which is "closed" and refuses to work with non-members lacks many of the attributes of a capitalistic trust, as it does not aim to undersell non-members or to "exterminate men

¹ Operative Plasterers, Proceedings of the Eighteenth Convention, 1904, p. 45.

² American Federation of Labor, Report of Proceedings of the Twenty-third Convention, 1903, p. 20, President's Report.

³ Iron Molders' Journal, June, 1904, p. 423.

⁴ "If a union is working not for the interest of all the men at the trade, but of members who at the time are actually in the union, if it is unduly restrictive . . . then its refusal to work with non-union men is monopolistic and such a union should not be put up on a par with unions that refuse to work with non-unionists in the general interest of the trade" (Mitchell, p. 283).

⁵ See above, p. 162 et seq.

to raise wages as Trusts have destroyed an excessive stock of goods."¹

When all shops are unionized, however, not only will employers be completely at the mercy of organized labor, but non-unionists will also be compelled to obtain union membership whether they wish to do so or not.² Thus "liberty," "freedom of contract," and the "inalienable right" of a workman to secure employment "where and when he pleases" will be denied. The closed shop, therefore, is said to be "un-American," "un-democratic," and contrary to the principles embodied in the Declaration of Independence and in the Constitution of the United States. It injures individuals by impairing their privileges as citizens, and therefore it is pronounced to be against public policy. In reply the unions which enforce the closed shop maintain that they do not deprive non-unionists of their "right to work" in any real sense, since no man is privileged to take up any employment that appeals to him regardless of the desire of employers.³ The only "right" which an individual mechanic has, if he does not see fit to accept such terms as are offered him, is the right to look for another job.⁴ The unions argue, moreover, that even if they do exercise some compulsion upon non-unionists in order to bring them into membership,

¹ Macgregor, *Industrial Combinations*, p. 179. It is interesting to note that the *Wall Street Journal* (October 17, 1903, p. 2) compares the closed-shop union to "a trust which seeks by measures of persecution to drive an independent merchant out of business."

² But while some opponents of the closed shop condemn it on the ground that it excludes non-unionists from a livelihood, others, curiously enough, protest that the union aims to bring about a monopoly by "the forcing of all labor" into unions so that the latter "may better be able to dictate terms to employers" (Statement of T. F. Woodlock, Editor of the *Wall Street Journal*, quoted in *The Bricklayer and Mason*, November, 1903, p. 2). The Master Carpenters of Philadelphia in 1836 condemned the closed shop because it prevented union members "from working at the same building or in the same shop with any journeyman who is not a member, thus compelling him to join the Association and contribute weekly his earnings for the support of the idle and discontented" (*The Pennsylvanian*, March 17, 1836, p. 2. Article reprinted in *Commons and Sumner*, Vol. VI, p. 52).

³ *Stone Cutters' Journal*, June, 1904, p. 2.

⁴ *The Bricklayer and Mason*, November, 1903, p. 5.

it is with a view to conferring benefit upon them. The workman who refuses to join a union, therefore, is said to be injuring himself, since he gains his livelihood "at the expense of the permanent interest of all workingmen."¹

Only on rare occasions have non-union men protested in a body against the establishment of the closed shop. In most of these instances, such as the appeal of non-union miners to the Anthracite Coal Strike Commission,² there is strong suspicion that the non-unionists took action at the instance of their employers and not upon their own initiative. There is no doubt, however, that many non-unionists in various trades have felt that to be required to become union members has been an imposition. Those who have been most firmly opposed to joining the union have probably been the exceptional mechanic and the workman of less than usual efficiency. The former feels able to shift for himself, and fears that the rules of the union may keep him from selling his skill as dearly as he might in a free market. The latter is hostile to the closed shop because he is excluded from employment in case he has not sufficient competency at his trade to obtain admission to membership or, if admitted, to receive the minimum rate.

In the long run the question will probably resolve itself into a consideration of the value of labor organization. Individuals may properly be made to suffer some loss by being compelled to act with others, or by being excluded from acting with others of their class, if it appears that the class as a whole is advanced by such action. What the non-unionist loses in "individual liberty," therefore, may be made up to him if his membership is necessary to enable the union to protect the conditions of work in its trade.³

¹ Mitchell, p. 278.

² Bulletin of the Department of Labor, May, 1903, pp. 520-522.

³ Professor E. R. A. Seligman in an address before the National Civic Federation in 1905 said: "Liberty must be looked at from the social as well as the individual point of view. The individual has become what he is largely through associated effort. This, however, implies a certain subjection of the individual to the group. The liberty that is compatible with social progress involves the readiness of the individual to work for a common end. If this readiness is not

(c) *The closed shop and trade unionism.*—The final argument directed against the closed shop is that it will ultimately prove the destruction of trade unions themselves. It is claimed that if workmen are induced to join a union through coercion, "the same process which deprives them of their freedom deprives the labor organization of that spirit of brotherhood which is at once the justification of its existence and the inspiration of its power."¹ Collective bargaining, it is urged, is highly desirable, but it will be "more speedily and permanently secured by the maintenance of free labor unions than by swelling the ranks of labor unions through processes of compulsion."² A combination of workmen to be "permanently efficient" must be composed "of members who believe in unionism and are loyal to it; it must be an army of volunteers and not of drafted men."³

In answer to the charges that their members are largely obtained through compulsion, some union leaders have retorted that "the scruples that the non-unionist is supposed to have against joining the union evidently exist only in the mind of the employer."⁴ In the opinion of these writers, only "scabs," professional strike-breakers, and semi-criminals dislike to join a labor organization. Other unionists admit that "it is a fact much to be regretted that a large percent of all trade unions in this country consists of so-called forced membership."⁵ They recognize that by means of the closed shop, social ostracism, and even physical force, union membership has been substantially increased.

We have already noted that one of the trade-union motives for enforcing the closed shop is that new members may be recruited. It would undoubtedly be disastrous if members were gained in no other way. But it is probably safe to say that most non-union men are not hostile to organization,

voluntary, it must be developed by persuasion or force." Quoted in the *Broom Maker*, June, 1905, p. 172.

¹ Editorial in *The Outlook*, July 16, 1904, p. 633.

² *Ibid.*

³ *Ibid.*, p. 632.

⁴ White, p. 179.

⁵ *The Bricklayer and Mason*, November, 1901, p. 6.

but are merely indifferent toward it. Consequently it is wrong to assume that every man who is compelled by the closed shop to become a union member remains anti-union at heart. Forced members have become in many instances ardent trade unionists. In fact, some of the men who are now national union officers originally joined their respective unions because they were compelled to do so or leave their jobs. On the other hand, many workmen resent having been forced to join an organization. Their resentment may even be carried so far as to induce them to act as informers for employers.¹ Certainly no union can afford to neglect the development of social, beneficiary, and other features that will induce men to join of their own accord. Voluntary membership is by all means the best, and a trade union cannot exist long if built on compulsory membership.

If it be true, as has been said, that "the excesses of unionism which have done and are still doing the greatest injury to the prospects of the movement are all traceable to the use of the arbitrary and coercive power of the closed shop," it is equally true that the closed shop is responsible for the greatest advances made by unionism. On the one hand, the closed shop, if universally enforced, would afford unions the opportunity to commit gross excesses by virtue of the power lodged with them. On the other hand, the closed shop opens the way to the highest and most efficient form of collective bargaining.²

Since regulation of employment is a matter of public concern, and since there is danger that trade unions may become arbitrary in exercising control over a trade, it has been suggested that the state should control their "constitution, policy and management."³ In this way requirements for ad-

¹ "The union button does not make a unionist at heart. An enemy is sometimes more formidable within the lines than on the outside" (Mitchell, p. 284).

² "In the most perfected form of Collective Bargaining, compulsory membership becomes as much a matter of course as compulsory citizenship" (Webb, *Industrial Democracy*, p. 217).

³ Bullock, p. 438.

mission to union membership and working rules could be regulated. State regulation, however, is likely to be introduced only after the closed shop has been widely enforced. At present, in the majority of trades, it is but partially enforced, and only with great difficulty.

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